

Award No. 406

Docket No. 418

2-Erie-FT-'39

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 100, RAILWAY EMPLOYES'
DEPARTMENT, A. F. OF L. (FEDERATED TRADES)**

ERIE RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES: That an employee, called a "leader" in this submission, comes within the scope of the rules and rates of pay for mechanical department employes, composed of machinists, boilermakers, blacksmiths, sheet metal workers, electrical workers, carmen, also their apprentices and helpers, effective May 1, 1929, and that such rules, as agreed to and signed for, shall apply the same to "leaders" as to any other mechanic covered by the above referred to agreement.

EMPLOYES' STATEMENT OF FACTS: "Leaders," also known at different points as leading mechanics, leading inspectors, leading machinists, boilermakers, carmen, etc., are of minor supervisory capacity, assigned to lead small gangs, and are required to do the work of the craft from which and to which they are assigned.

They receive a differential of seven cents (7¢) per hour above the rate paid mechanics of their craft and in many cases work greater number of hours per day, days per week and month than that which has been agreed upon by the general committee and the local committees representing the different crafts.

In reduction of forces, they are not laid off in accordance with their seniority.

In the temporary closing of shops, they are not laid off in the same manner as other mechanics of their craft.

In fact, only such rules of the agreement, that the management desires to apply to them, are applied.

POSITION OF EMPLOYES: Rule 19 of the general rules of the rules and rates of pay for mechanical department employes states:

"Mechanics or apprentices, regularly employed as such, shall do the work as defined in the special rules of each craft with the following exceptions:

- (a) Foremen at points where no mechanics are employed.
- (b) Any foreman or shop demonstrator in an emergency or when demonstrating work for the instruction of craftsmen or apprentices, or as may be necessary in making tests and experiments.

Two cases where the employes among themselves divided the work between three qualified employes.

These leader positions in many instances are filled by employes who have held them for a great many years, and if vacancies did occur it has been customary to select a qualified employe from the ranks of the mechanics involved who is good material for a foremanship when vacancies develop. It has not been customary to advertise these vacancies except that where the vacancy has been for a boilermaker inspector and leader, there have been a few instances where such vacancies have been advertised.

Except at outlying points, in general, these employes classified as leaders perform to a great extent service of a supervisory nature. However, if during the course of their days' assignment it may become necessary for them to make use of tools or other equipment, the exceptions as listed under Rule 19 would fully support the right of leaders to make use of tools or other appurtenances in connection with their assignment.

For these reasons, we are of the opinion that employes classified as leaders do not come within the scope of the rules and rates of pay for mechanical department employes, effective May 1, 1929, and that this claim should be denied:

1. The scope as defined is for mechanical department employes, composed of machinists, boilermakers, blacksmiths, sheet metal workers, electricians, carmen and their helpers and apprentices.
2. Leaders are of a supervisory or a semi-supervisory nature, and do not come within the above described scope.
3. Rates of pay for the employes included within the scope as listed above in this brief do not contain any provision for leaders, nor do the rules provide for the differential rate that is paid to leaders.

Rule 19 as above quoted in this brief in its exceptions to the rule clearly permits leaders to make use of tools or other appurtenances when it states:

"Any qualified employe of the Mechanical Department as conditions require."

FINDINGS: The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Act, as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

The parties to said dispute waived right of appearance at hearing thereon.

Statement of carrier, "Showing Earnings Paid Leaders," which was offered in rebuttal, shows that a number of employes in the various departments are classified on the payrolls as "leaders" in several crafts. This is evidence of management's recognition of such title and classification.

It has been generally recognized that a "leader" who performs the regular work of his class, in addition to leading and directing the work of his gang, comes within the rules of agreement of such craft. A "leader" who devotes all of his time to supervisory work is in reality a foreman.

The representatives of both parties to this dispute should work out the details necessary to determine which of the classified "leaders" are "leaders" in fact, and those whose duties are wholly supervisory, in accordance with the foregoing.

AWARD

Claim of employes sustained insofar as it applies to employes who perform the regular work of the craft in addition to leading and directing; this without retroactive effect.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 12th day of December, 1939.