

**Award No. 407**

**Docket No. 425**

**2-Erie-BM-'39**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**SECOND DIVISION**

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**PARTIES TO DISPUTE:**

**ERIE SYSTEM FEDERATION NO. 100, RAILWAY  
EMPLOYEES' DEPARTMENT, A. F. OF L. (BOILERMAKERS)**

**ERIE RAILROAD COMPANY**

**DISPUTE: CLAIM OF EMPLOYEES:** That the practice of laying off boilermaker helpers and using other than boilermaker helpers to do boilermaker helpers' work be discontinued at once, and that John Vito, senior boilermaker helper at Avon roundhouse, Avon, N. Y., be restored to his former position and paid for such time that he lost when other than boilermaker helpers performed the work classified in the shop crafts' agreement (known as Rules and Rates of Pay for Mechanical Department Employees) as boilermaker helpers' work, and that the award be made applicable to all points on the railroad where similar conditions exist.

**EMPLOYEES' STATEMENT OF FACTS:** Boilermaker helpers' work, Rule 5, Boilermakers' Special Rules—Rules and Rates of Pay for Mechanical Department Employees, effective May 1, 1929, reads:

"5. Employees assigned to help boilermakers and their apprentices, operators of drill presses, and bolt cutters in the boiler shop, boiler washers, punch and shear operators (cutting only bar stock and scrap), attending tool room in boiler shop, flue blowers, scaling boilers, holding on rivets and staybolts, striking chisels, bars, sets and backing out punches, heating rivets, opening and closing front ends and all other work generally recognized as helpers' work."

Rule 7 of the Boilermakers' Special Rules, as referred to above, refers to boilermaker helpers' work and reads as follows:

"7. Boilers will have steam blown off when deemed necessary and be sufficiently cooled before boilermakers or apprentices are required to work in them; blowers will be furnished when possible to do so.

Fireboxes, front ends and ashpans will be properly cleaned out before boilermakers or apprentices are required to work in them."

That on June 23, 1939, John Vito, boilermaker helper at Avon roundhouse, senior and the only boilermaker helper working at this point, was laid off and since that date, hostlers, laborers, machinists and machinist helpers, etc., have been assigned to do the boilermaker helpers' work as quoted above.

customary under the circumstances that exist in these cited cases to use other available employees when occasion demands, but does not constitute justification for an additional employee.

Rule 5, which has been cited by the employees in support of their claim, does not imply that only boilermaker helpers will do such work, but rather does imply that where "employees assigned to help boilermakers" they will be classed as boilermaker helpers, but this does not preclude the use of other employees under the circumstances cited, or as they existed in this instance, from occasionally assisting a boilermaker.

Attention has been directed to Rule 19, pages 10 and 11 of the rules, and the representative of the employees in this instance has recognized that this rule and the exceptions thereunder apply to mechanics and apprentices, but holds that, because helpers are not mentioned, the rule would not be applicable to helpers.

It is the position of the Railroad Company that this claim is contrary to the long existing practice at many points of this railroad, and therefore, is unjustified and not supported by the rules and should be declined by your Board.

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

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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 were given due notice of hearing thereon.

During the oral hearing of this dispute it was disclosed that from five to seven locomotives are handled daily at Avon.

The parties are not in agreement as to the number of men regularly employed at the point involved.

The evidence is not sufficiently clear to enable the Division to render an award and, therefore, decides that the dispute should be remanded.

#### AWARD

This dispute is remanded to the interested parties who are directed to conduct a joint investigation with a view of making such adjustment of forces as will result in reasonable compliance with the rules of agreement; this without prejudice to the rights of either or both parties to resubmit the case in the event of failure to reach a settlement.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

ATTEST: J. L. Mindling  
Secretary

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