

Award No. 412

Docket No. 430

2-MP-BM-'39

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**SYSTEM FEDERATION No. 2, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (BOILERMAKERS)**

MISSOURI PACIFIC RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: That water service employes are being used to perform boilermakers' work in violation of the boilermakers' Classification of Work Rule 62 of the current agreement, and should be discontinued. That the two oldest furloughed boilermakers and Helper Frank Sarna of Little Rock be compensated for four days' pay at prevailing rate account of said violation.

POSITION OF EMPLOYEES: About November 18, water service employes were assigned to clean out steel water tank connected with heat treating plant at No. Little Rock, Ark.

During the time this job was in progress, they discovered that the plates and braces holding them were down, due to rivet heads rusting off. These plates are used to hold excelsior or some other coarse material which acts as a strainer to remove sludge from the water.

The water service employes asked for boilermakers to be assigned to the work, knowing they had always maintained these tanks, but were informed that no one was available and that they would have to do the work themselves. Mr. Hanna might not have had men he could spare for this work from the roundhouse, but plenty of men were available in the back shop.

In assigning this work to the water service men, management violated Rule 62 (a), as it is plainly covered as work belonging to the boilermakers:

"Boilermaker's work, including regular and helper apprentices, shall consist of laying out, building or repairing boilers, tanks and drums; * * *"

There is no classification of boilermakers under the M. of W. agreement, nor is there classification of work that is generally recognized as boilermakers' work.

Boilermakers have always done this work for the last twenty years at least, and probably for much longer. These tanks are constructed by boilermakers and, until the time of the violation, had always been maintained by them.

Management takes the position it is not equipment, but is covered under the M. of W. rules as a building or structure. Equipment is the physical facility available for production, including machines, tools, etc., and certainly

(a) Bridge and Building Department:

* * * Water Service Foreman, Assistant Foremen, Repairmen, Helpers, Laborers and Pumpers * * *."

Rules of the agreement with the Brotherhood of Maintenance of Way employees do not embrace what are generally termed "classification of work rules" such as that appearing in wage agreements with the various other classes of employees including the Federated Shop Crafts; however, our established practice under the rules is to allow to the classes of employees covered by the scope rule of the agreement work properly allocated to this group by our practices and rules, such as the rules and instructions for the Maintenance of Way and Structures Department that defines work performed by employees of that department, manner of construction, maintenance, etc.

As there is no rule in our wage agreement, or established practice thereunder with System Federation No. 2, Railway Employees' Department, A. F. of L., Mechanical Section thereof, there can be no justifiable basis for your Honorable Board to sustain the employees' contentions in this case, as by doing so it would nullify a condition of employment covered by contractual relations with another group of employees, that is, Brotherhood of Maintenance of Way employees.

The employees in the presentation of this case also claim four days' pay for two boilermakers at 86¢ per hour, favor two oldest furloughed men (names not given by the employees in the presentation of their case); also four days' pay for Helper Frank Sarna of Little Rock at 60¢ per hour. Claims filed for unknown claimants can best be described as mythical.

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 were given due notice of hearing thereon.

There is sufficient evidence that water service employes performed boilermakers' work. The amount of such work as was performed by water service men, as well as the time consumed in its performance, remains a question of fact as no record of the actual work performed or the time consumed was maintained.

Boilermakers should be used to perform the work of their craft as provided in the rules of agreement.

AWARD

Claim sustained without compensation for time lost.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 18th day of December, 1939.