

Award No. 421

Docket No. 441

2-Va-MA-'40

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**SYSTEM FEDERATION No. 40, RAILWAY EMPLOYES'
DEPARTMENT, A. F. OF L. (MACHINISTS)**

THE VIRGINIAN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYES: Machinist Helper J. A. Alvis should be allowed the differential rate of pay provided for machinist helpers by Rule 51 of the existing agreement and paid the difference between that and helpers' rate for all time worked since February 1, 1926, to date of adjustment.

EMPLOYEES' STATEMENT OF FACTS: Mr. J. A. Alvis is employed in the back shop here at Princeton, W. Va., and is rated as a machinist helper and has for years performed work that, according to Rule 51, and note thereon, of the existing agreement, should carry a rate of pay ten (10) cents per hour under the minimum rate established for mechanics. He is now doing spring rigging work along with Machinist C. A. Smith, and is expected to do and does work with the tools, such as hammer, chisels, bars, wrenches, and keeps his end of the work up with that of the machinist also assigned to the job. He applies and keys up hangers, equalizers and pins and applies saddles and performs all and any work the same as the machinist. Mr. Alvis also operates (alone) portable grinder on hangers, saddles and equalizers and all other spring rigging work. He also chips out, squares up, and files notch in the back end of engine frame and spot fits deck cross bar therein; he fits one end of bar while Machinist C. A. Smith fits the other end into slot or notch in extreme end of engine frame. Alvis (alone and unassisted by anyone) keeps the spring rigging job up during the days when the machinist assigned to this work with Alvis is off duty. He is also requested to do and does other miscellaneous machinists' work throughout the shop.

POSITION OF EMPLOYES: We contend that Rule 51 of the existing agreement in effect on the Virginian Railway provides the grounds for our claim in the following language:

"Rule 51

Helper's work shall consist of helping machinists and apprentices, dismantling locomotives and machinery for repairs; ratchet and other skilled drilling and reaming; tool grinding and machine grinding; removing, replacing, grinding, bolting and breaking of all joints on steam and exhaust pipes and superheaters; removing, repairing and applying trailer and engine trucks and parts thereof; removing and repairing springs and spring rigging; removing and repairing brake rigging; removing and applying air pumps in erecting shops; * * *

more than four (4) hours on any one day, the higher rate will apply for that day."

If Alvis ever performed any of the work he claims to have performed, his compensation would have been predicated on this rule.

In connection with the employes' claim for time lost, the carrier contends that it cannot be supported by Rule 1 (a) of the existing agreement, which reads:

"(a). Eight (8) hours shall constitute a day's work and eight (8) hours' work will be required for eight (8) hours' pay."
said rule requiring eight (8) hours' work for eight (8) hours' pay.

The carrier respectfully requests, first, that the alleged claim be denied and/or dismissed for lack of jurisdiction, and if considered on the merits, second, that it be denied.

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.

Rule 51 of the agreement provides that certain work underlined therein, when performed by machinist helpers "regularly assigned," shall be paid for at a certain rate of pay.

The employes state that J. A. Alvis has performed the work in question for more than twelve (12) years, both individually and in conjunction with a mechanic.

The carrier states that J. A. Alvis has not been "regularly assigned" to this work, but has been "regularly assigned" to help Machinist C. A. Smith who is "regularly assigned" to the work in question.

The carrier does not admit that Alvis does any of the work in question, except that if he does it he should do so by reason of the contents of Rule 29 (d).

J. A. Alvis is regularly assigned to the work underlined in Rule 51, but how much or how often he individually performs that work is sharply in dispute.

Rule 51 sets up two classifications of work for helpers, one paying the established helpers' rate and one paying a rate of ten (10) cents per hour less than the established mechanics' rate.

AWARD

Helpers assigned to perform (not helping to perform) the types of work underlined in Rule 51 shall be paid a rate of ten (10) cents per hour less than the established mechanics' rate for all such work performed, effective February 1, 1940.

Claim for back pay prior to above date is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 15th day of January, 1940.