

Award No. 501

Docket No. 507

2-ACL-BM-'40

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 42, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (BOILERMAKERS)**

ATLANTIC COAST LINE RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: That shop laborers are being used in the carrier's shops to perform boilermaker helper's work in violation of Rule No. 204.

EMPLOYEES' STATEMENT OF FACTS: It is the practice in all shops on the Atlantic Coast Line Railroad to assign laborers to assist boilermaker helpers in washing boilers. Duties required in this operation are handled jointly by boilermaker helpers and laborers without any distinction between the two with respect to their classification.

Ordinarily two men are used in the washing of boilers, however, it is sometimes handled by laborers in completely eliminating boilermaker helpers altogether.

This case has been handled in accordance with provisions of the rules and the amended Railway Labor Act, and in denying adjustment the carrier has also declined joining us in submission to the Second Division, National Railroad Adjustment Board, taking the position that Rule 19, Grievances, had not been complied with in the employees' handling of the case.

POSITION OF EMPLOYEES: The instant claim was initiated in August, 1938, at Montgomery, Alabama, when the local committee protested management assigning laborers to wash boilers. The same practice was later complained of at various points on the system, and when handled with the master mechanics and superintendent motive power, corrections were promised that were never made. In promising corrections to recognize washing boilers as boilermaker helpers' work the management did, however, claim that the laborer could be used in connection with this work insofar as to drag water hose and turn water on and off. The claimed right in the use of a laborer to this extent is probably accountable for the fact that he not only does this, but, as stated above, performs the same work as the boilermaker helper, namely, applying and removing wash out plugs, pulling out broken staybolts and mud and scale off of the mud ring.

In substantiation of the fact that laborers are being used as claimed, we submit Exhibits A to L, affidavits from shop laborers at a number of points on the system in which they explain their use as boiler washers.

To show that this practice is in violation of the boilermaker helpers' classification we quote Rule No. 204:

It is true that at some small points where there are small forces, if the boilermaker helpers are busy and a boiler has to be washed, the laborer washes the boiler, but is paid the boilermaker helpers' rate at that time, as it was considered an emergency and temporary work and not an assignment. If at these points, this temporary work increased to any extent, a boilermaker helper would be put on to do this. The same would be done in the case of points where only one man is employed when he is off sick or otherwise, temporarily, the laborer would be used and paid accordingly.

There has been no violation of Rule 204, as the temporary work is permitted because of the fact that Rule 18 is applicable.

"Rule 18—Pay For Filling Vacancies

When an employe is temporarily required to fill the place of an employe of another classification receiving a higher rate of pay he shall receive the higher rate each hour so assigned. If the assignment exceeds four (4) hours he will be paid the rate for the entire day."

Therefore, we respectfully request the National Railroad Adjustment Board to dismiss this claim.

The carrier reserves the right if and when it is furnished with the petition filed ex parte by the petitioners in this case which it has not seen, to make such further answer and defense as it may deem necessary and proper in relation to all allegations and claims as may have been advanced by the petitioners in such petition and which have not been answered in this its initial answer.

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 204 provides that boiler washing is boilermaker helpers' work.

The work of removing and applying wash out plugs or pulling out or washing out broken staybolts, mud and scale from boilers, now being performed by laborers, is a part of the work of boiler washers.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 1st day of August, 1940.