

Award No. 529

Docket No. 509

2-ACL-MA-'41

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee William E. Helander when award was rendered.

PARTIES TO DISPUTE:

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

ATLANTIC COAST LINE RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES: That positions of Diesel "Maintainer" established on Diesel operated streamline trains were improperly and arbitrarily filled by the carrier in violation of a decision previously agreed upon for filling such particular and now existing positions; therefore, it is further claimed these positions should be bulletined and filled in accordance with such plan as previously determined and decided between the aforesaid parties.

EMPLOYES' STATEMENT OF FACTS: In the course of a conference being conducted in the office of the General Superintendent Motive Power, Mr. F. S. Robbins, at Wilmington, N. C., July 25 and 26, 1939, pertaining to matters which accounted for the presence of the general chairmen of machinists, boilermakers, sheet metal workers and carmen, accompanied by Mr. F. D. Laudemann to represent the Railway Employees' Department, the general superintendent motive power deviated from the subject of discussion to state that he considered the occasion of this meeting (also attended by the two superintendents motive power) appropriate for announcing plans of the company to establish Diesel operated streamline trains between New York and Miami. The general superintendent motive power then handed across the table to the general chairman of machinists the following memo:

"ANNOUNCEMENT

Due to the establishment of Diesel operated streamline trains between New York and Miami, a position of Maintainer will be established on the locomotive, to run between Jacksonville and Florence, Florence and Washington, D. C.

The salary for these positions will be established under Rule 10 of the Machinists Agreement and Rule 11 of the Electricians Agreement, with one end of the run being established as a Home Terminal.

Employes who desire such position should have the ability to perform the duties required and should make application to their Foreman. There will be four men regularly assigned for such positions and two will be required for extra, or relief, assignment. The men qualifying will be sent to the Electro-Motive plant at LaGrange, Illinois for a two weeks course of study of the Diesel locomotive. The assignment will be divided between machinists and electricians as the mechanic employed will be required to perform the work of both crafts."

CARRIER'S STATEMENT OF FACTS: Carrier does not have traveling maintainers assigned on Diesel-electric locomotives.

POSITION OF CARRIER: In July 1939, at a meeting held in Wilmington, N. C., for other purposes, there was a discussion in reference to the new Diesel streamlined trains that were to be inaugurated on the Atlantic Coast Line Railroad, and in the discussion, the question was raised as to the method of selection of traveling maintainers. However, no decision was reached as no definite plans had been reached whether or not maintainers were required.

On August 29, 1939, the subject of Diesel road maintainers was discussed, but no definite plans had been made for road maintainers—only discussions were had with reference to bulletining for them in case it was decided to have them.

Under date of October 23, 1939, letter was received from General Chairman Hendrix alleging that locomotive firemen had been selected as traveling maintainers, which carrier emphatically denies.

At the beginning of the winter season on the Atlantic Coast Line Railroad, it has been the practice for several years to have firemen instructors. These men are instructors of firemen and, as stated to General Chairman Hendrix in letter of October 25, 1939, will ride Diesel-electric as well as steam locomotives during the winter season.

The maintenance on the Diesel-electric locomotive is done at the terminals.

Carrier does not have Diesel maintainers assigned to road service and denies any violation of the agreement, as the alleged case is non-existing.

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

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.

The employes and management entered into an agreement with reference to Diesel road maintainers and the method of selection.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 7th day of January, 1941.