

Award No. 618

Docket No. 576

2-ACL-FO-'41

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee John P. Devaney when award was rendered.

PARTIES TO DISPUTE:

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

ATLANTIC COAST LINE RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES: That the carrier be required to re-establish the third shift in the powerhouse, Waycross, Georgia, and to compensate John A. Williams for the difference in oiler's rate of 60c per hour and engineer's rate of 87¢ per hour for work performed from January 14, 1937, to April 21, 1940, and for all lost time since third shift was abolished on April 21, 1940.

EMPLOYES' STATEMENT OF FACTS: Prior to April 21, 1940, John A. Williams was employed in the Waycross, Georgia, powerhouse, classified as stationary oiler and paid the oiler's rate of 60¢ per hour.

The work performed by Williams, assigned to the third shift, was identical with the duties of the engineers on the first and second shifts.

Oiler Williams was verbally instructed by Foreman J. Lee Parker that he was responsible for the proper performance of the powerhouse between the hours of 11:00 P. M. and 7:00 A. M., or the third shift, and was held accountable for the powerhouse during these hours.

Claim for engineer's rate on the third shift was filed in writing on January 30, 1940. The master mechanic declined the claim on February 13, 1940, and on February 22, 1940, the decision was appealed to Superintendent Motive Power Grant. Mr. Grant also declined to satisfactorily adjust the claim and on April 6, 1940, Mr. Grant threatened to abolish Williams' job. This threat was carried out on April 16, ten days later, when a bulletin from the master mechanic was posted, abolishing the job five days from that date, or April 21.

The decision was appealed to Mr. Robbins, general superintendent motive power, who has declined to re-establish the third shift at the Waycross powerhouse or to pay engineer's rate.

Williams is allowed to relieve the engineer of the first shift one day per week and the engineer of the second shift one day per week, as these engineers are six day assigned, this being the only employment Williams has at the present time.

POSITION OF EMPLOYES: John A. Williams began as fireman in the powerhouse on August 12, 1934. He was subsequently assigned to the position of powerhouse oiler on January 14, 1937. There is no difference in pay of a stationary fireman and a stationary oiler; both receiving 60¢ per hour.

of facts which states that "stationary oilers' work shall consist of oiling in the powerhouse and generally assisting the powerhouse and stationary engineers," inasmuch as Mr. Williams was only required to do the oiling on the third shift and to observe the operating conditions in the powerhouse.

In June, 1939, in the interest of efficiency in fuel economy, the management of the railroad authorized the application of stokers to the powerhouse boilers and other improvements at Waycross. This work was completed March 1, 1940. Subsequent careful time studies disclosed the fact that this betterment had so increased the efficiency of operation in the powerhouse that we would be able to dispose of the services of one man; therefore, the job of oiler on the third shift was abolished on April 21, 1940. The third shift works from 11:00 P. M. to 7:00 A. M. when there is much less demand on the power system and much less work than during the first and second shifts.

To re-establish a job in the powerhouse that is not needed, would be taking a step backward and nullifying the company's efforts to keep their shop plants on a modern and efficient basis.

Carrier contends that there is no necessity for the assignment of three shifts of engineers in the power house at Waycross, Ga., as the service requirements do not justify it, and has also been proven since April 21, 1940, that the service requirements do not justify an oiler. Therefore, carrier contends the rules of the agreement have not been violated and respectfully requests the National Railroad Adjustment Board to deny 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 in making claim for re-establishment of the third shift and for compensation have the burden of proof. The record shows there might have been bona fide reasons for abolition of one man's position on the third shift. Neither Rule 21 nor Rule 24 prevents abolition of a position where it is done for reasons separate and distinct from and without reference to the dispute. The employes have not sustained the burden that the oiler's job on the third shift was improperly abolished.

On the facts presented, it would be improper to award the compensation claimed. It has not been adequately established that the duties performed by Williams on the third shift were sufficiently comprehensive to justify classifying him as a stationary engineer within Rule 24, Section L.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 11th day of June, 1941.