

Award No. 707

Docket No. 605

2-CRI&P-FO-'42

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 6, RAILWAY EMPLOYES'
DEPARTMENT, A. F. OF L. (FIREMEN AND OILERS)**

**THE CHICAGO, ROCK ISLAND AND PACIFIC
RAILROAD COMPANY**

DISPUTE: CLAIM OF EMPLOYES: That W. H. Becker, laborer at Waurika, Oklahoma, be restored to service and compensated for all monetary loss in wages subsequent to November 16, 1939, account carrier assigning laborers' class of work to employes other than laborers.

EMPLOYES' STATEMENT OF FACTS: Following a series of complaints from the claimant in this case, Mr. W. H. Becker, a joint check of the work in question was arranged for between the undersigned employes' representative and representatives of the carrier.

Mr. S. E. Mueller, superintendent motive power, and Mr. J. M. Kerwin, master mechanic, represented the carrier in making the joint check and investigation which was held at Waurika on November 16, 1939.

The investigation established the fact that one laborer is employed on the first shift and one laborer is employed on the second shift and the necessary locomotive preparatory work on the third shift is being performed by other than laborers. This shift was formerly held by Mr. Becker.

It was further developed in the investigation that a 75-H. P. oil-fired stationary boiler is used to heat fuel and lubricating oils and is in continuous service twenty-four hours per day. The laborers on the first and second shifts are required to care for this boiler in addition to their regular duties; it is fired by other employes on the third shift.

The joint check of the engines handled at Waurika from November 9 to November 16, as taken from train register disclosed the following engines handled in and out of this point.

Nov. 9, 1939

Eng. No.	Train	Arrived	Called	Departed
5032	95	1:35 P. M.	1:15 P. M.	2:00 P. M.
4022	96	3:40 P. M.	3:25 P. M.	4:10 P. M.
5021	93	11:45 P. M.	12:05 A. M.	12:10 A. M.
1733	Lcl	8:45 P. M.		
1733			9:00 P. M. for sw service	

that because of the amount of business through Waurika, it is necessary that a machinist helper be employed on the night shift and that you have a perfect right to have him fill out his day on the small amount of laborers' work that is necessary. While we agree with this thought, our records indicate that this helper, over the past couple of years, has performed very little work of his classification each night and that the balance of his time is put in performing work of our craft, such as: supplying, handling, fueling and cleaning engines.

I note that you are declining this claim and because of the fact that we feel that the evidence on record justifies the claim, we respectfully request the Management to join us in a statement of facts in submitting this matter to the National Railroad Board of Adjustment for final settlement.

Yours truly,

(Signed) C. R. Langhofer,
General Chairman.

Thus we find that the general chairman, Mr. Langhofer, and Mr. Frey are in thorough accord at least as to part of the rights of the railway company. They are in thorough accord on the proposition that the railway company has a perfect right to have a machinist helper fill out his day on any small amount of laborer's work that is necessary.

We do not know how much so-called laborer's work Mr. Langhofer says is performed by the machinist helper, but for any differences which may exist in the positions of Mr. Langhofer and our statements as to the amount of time put in on so-called laborer's work, we are not responsible. We always have been, and are now, ready and willing to have a joint detailed check made on the ground by representatives of the parties. If it be found that but a small part of the time of the machinist helper is used in the performance of so-called laborer's work, the claim must be declined because Mr. Langhofer and the railway are in thorough accord, as evidenced by the letters of August 28, 1939, and September 2, 1939, that the railway company under these circumstances is not required to maintain an additional position of laborer at Waurika.

The claim should be declined.

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 dispute involved herein.

The parties to said dispute were given due notice of hearing thereon.

The evidence is not sufficient to enable the Division to make an award.

AWARD

Claim dismissed without prejudice to the rights of either party to resubmit this dispute.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 11th day of March, 1942.