

Award No. 838
Docket No. 769
2-D&RGW-CM-'42

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee I. L. Sharfman when award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 10, RAILWAY EMPLOYES'
DEPARTMENT, A. F. OF L. (CARMEN)

THE DENVER & RIO GRANDE WESTERN RAILROAD
COMPANY

DISPUTE: CLAIM OF EMPLOYES: 1—That the position occupied from October 29, 1941, to on or about March 4, 1942, by Carman Eph Mair, 4:00 P. M. to 12:00 M., Roper train yard, Salt Lake City, Utah, is not that of a leadman as contemplated by Rule 43 of the current agreement.

2—That the position is that of a foreman and Carman Eph Mair shall be paid the difference between the foreman's rate and the rate he received, retroactive to October 29, 1941, and that such position shall be classified as that of a foreman, hereafter.

EMPLOYES' STATEMENT OF FACTS: On October 29, 1941, the two foremen, (W. J. Woodhead—P. J. Faulkner) employed Roper train yard, 7:00 A. M. to 7:00 P. M. and 7:00 P. M. to 7:00 A. M. respectively, (twelve hours) were put on eight hour shifts. Foreman Woodhead assigned to the 8:00 A. M. to 4:00 P. M. shift and Foreman Faulkner assigned to the 12:00 midnight to 8:00 A. M. shift.

A bulletin expired on this date (shown as employees' Exhibit A), advertising for bid a position as leadman Roper train yard, 4:00 P. M. to 12:00 midnight. Carman Eph Mair was subsequently assigned to this position.

Under date of March 3, 1942, a joint check of the duties of this leadman was made at the request of assistant general manager, Mr. J. E. Kemp, by the general Chairman and the general car foreman, Salt Lake City shops, submitted herewith as Exhibit B.

Within a day or two after making this check, the carrier abolished the position of leadman on the 4:00 P. M. to 12:00 midnight shift and assigned Foreman Faulkner to this shift.

Claim of employees have been denied by the management in this case.

POSITION OF EMPLOYES: Rule 43 of the controlling agreement reads as follows:

A lead workman may be assigned, who in addition to performing regular work of his craft, will take the lead and will assign and

The carrier further contends there is no justification for this claim and it should 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 43 of the agreement, upon which the employes rely, provides as follows: "A lead workman may be assigned, who, in addition to performing regular work of his craft, will take the lead and will assign and direct other members of the gang. For such service a differential of five (5) cents per hour will be paid above the minimum rate paid mechanics."

This rule does not specify how much regular work of his craft a lead workman must perform, nor does it stipulate the size of the gang he may direct or the amount of time he is permitted to devote to leading other members of the gang.

The evidence of record discloses that Carman Mair was assigned as a lead workman in good faith, that he performed each day a substantial amount of the regular work of his craft, that his other duties were those normally associated with a lead workman, and that he was paid the differential provided for in the governing rule.

In these circumstances no violation of the agreement has been established.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 13th day of October, 1942.