

Award No. 925

Docket No. 803

2-ACL-SM-'43

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Herbert B. Rudolph when award was rendered.

PARTIES TO DISPUTE:

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

ATLANTIC COAST LINE RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That since December 12th, 1940, the carrier has persisted in violating the controlling agreement and Rule 704 thereof by—

- (a) Classifying Moulder Helpers Roy Taylor and Pete Neal as laborers, and
- (b) Paying Moulder Helpers Roy Taylor and Pete Neal the rate of pay of laborers.

2. That in consideration of the aforesaid violations, Moulder Helper Pete Neal is entitled to be—

- (a) Classified as moulder helper.
- (b) Paid the rate of pay of helper retroactive to December 12th, 1940, and
- (c) Listed on moulder helpers' seniority roster as of date used as moulder helper.
- (d) Roy Taylor should be compensated at the rate of pay of moulder helper from December 12th, 1940, until date he accepted position as moulder apprentice.

EMPLOYEES' STATEMENT OF FACTS: At Waycross, Georgia, the carrier maintains a foundry and a force of employees as follows:

Moulders	8
Coremakers	1
Apprentices	1
Helpers	4
Laborers	14

The claimants are regularly employed in this foundry from 7:30 A. M. to 4:00 P. M., during which hours they are assigned and required to help moulders, coremakers, and perform other moulder helpers' work.

These claimants are classified as laborers and are paid the laborers' rate of pay.

POSITION OF EMPLOYEES: Rule 704 of the current agreement is herewith quoted:

Rule 704 of the agreement between the Atlantic Coast Line Railroad Company and the employes of the mechanical department, dated November 11, 1940, reads as follows:

Moulder helpers' work shall consist of helping moulders, core-makers, and their apprentices, and other work generally recognized as moulder helpers' work by A. C. L. R. R.

The work performed by Roy Taylor and Pete Neal was never recognized by the railroad company as moulder helpers' work, but has been recognized as the work of laborers, as the work performed by these laborers required practically no skill as it consisted of keeping materials such as patterns, flasks, sand, rods, etc., at places that they are used, and removing this material after being used, and in keeping the shop in an orderly condition.

Carrier contends that the work performed by Pete Neal and Roy Taylor at the time this complaint originated or since while working in the classification of laborer, Waycross foundry does not come within the scope of Rule 704, and further contends that there has been no violation of the agreement, and respectfully requests the National Railroad Adjustment Board to deny this claim.

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.

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

The Second Division of the National Railroad Adjustment Board has jurisdiction of disputes between an employe or group of employes and a carrier only to the extent that such jurisdiction is conferred upon the Second Division by the terms of the Railway Labor Act, as amended. Sec. 3 (h) of the Act provides for the jurisdiction of the different Divisions of the Board, and confers upon the Second Division "jurisdiction over disputes involving machinists, boilermakers, blacksmiths, sheet-metal workers, electrical workers, carmen, the helpers and apprentices of all the foregoing, coach cleaners, power-house employes, and railroad-shop laborers." The dispute involved in this docket concerns moulder helpers and is not within the prescribed jurisdiction of the Second Division. The fact that these moulder helpers are represented by the sheet metal workers' organization does not confer jurisdiction upon this Division.

AWARD

Claim dismissed for want of jurisdiction.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 8th day of June, 1943.