

Award No. 945
Docket No. 908
2-LV-FT-'43

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 96, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (FEDERATED TRADES)

LEHIGH VALLEY RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That on and since November 1, 1942 the carrier has violated the controlling agreement and Rule 33 thereof by the arbitrary payment of only the minimum rate established for the respective crafts to mechanics in each of such crafts assigned to operate the oxyacetylene tool in connection with cutting, burning or heating.

2. That in consideration of the aforesaid violation, the carrier be ordered to pay each mechanic in each craft the five cent differential rate who have been assigned regularly or temporarily to use the oxyacetylene tool to expedite the completion of the work assigned whether welding, cutting, burning or heating, retroactive to January 8, 1943.

EMPLOYEES' STATEMENT OF FACTS: The special rules of each craft of the November 1, 1943 agreement provide that autogenous welders shall receive five cents (5¢) per hour above the minimum rate paid mechanics in that craft at the point employed.

There is a provision in the general rules which prescribes the basis for the payment of the said differential rate on the hourly or daily basis when employe mechanics are required to use the oxyacetylene tool in connection with the work assigned whether actually welding or cutting, burning or heating.

These employe mechanics who are required to use these oxyacetylene tools to expedite the completion of one job by cutting, burning or heating, to be assigned another job, are denied the differential rate by the carrier.

POSITION OF EMPLOYEES: Rules 68, 86, 98, 110, 119 and 140 of the agreement read as follows:

Autogenous welders shall receive five cents per hour above the minimum rate paid mechanics at the point employed.

The carrier has taken the position, at a conference held with Mr. Haines, assistant to vice president and general manager, and Mr. Grove, superintendent motive power, along with the executive board of Lehigh Valley System Federation No. 96, said conference held in Mr. Haines' office on January 8, 1943, that there is nothing in the rules which states that mechanics using the cutting torch shall receive the welders' rate of pay, which is five cents above the minimum rate paid mechanics of each craft.

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.

This Division in its Awards 427 and 606 passed upon the question herein involved in favor of the petitioner. The rules invoked are in essence the same, but have different numbers. In the instant case Rule 33 is the principal supporting rule. The cutting torch is a part of the welding processes.

AWARD

Claim sustained for employes regularly assigned, or assigned by management to use the cutting torch.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 1st day of October, 1943.