

Award No. 1058
Docket No. 1015
2-StLSW-MA-'45

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 45, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (MACHINISTS)

ST. LOUIS SOUTHWESTERN RAILWAY COMPANY
ST. LOUIS SOUTHWESTERN RAILWAY COMPANY
OF TEXAS

(Berryman Henwood, Trustee)

DISPUTE: CLAIM OF EMPLOYEES: That the controlling agreement and particularly Rule 2, provides that not more than three shifts shall be established.

That the carrier violated the controlling agreement and particularly Rule 2 when the fourth shift was established in the machinist craft at Commerce, Texas, on April 19, 1943.

That the carrier be ordered to disestablish the fourth shift from 6:00 P. M. to 3:00 A. M., with one hour off for lunch.

EMPLOYEES' STATEMENT OF FACTS: At Commerce, Texas, the carrier has maintained four shifts of machinists and helpers since about April 19, 1943, as follows:

- 1—First shift, 2 machinists and 2 machinist helpers from 7:00 A. M. to 3:00 P. M.
- 2—Second shift, 1 machinist and 1 machinist helper, from 3:00 P. M. to 11:00 P. M.
- 3—Third shift, 1 machinist and 1 machinist helper from 11:00 P. M. to 7:00 A. M.
- 4—Fourth shift, 1 engine inspector, from 6:00 P. M. to 3:00 A. M., with one hour off for lunch.

This dispute has been handled as provided in the controlling agreement up to and including the highest designated carrier official to whom such matters are referable. With this official, more than one attempt has been made at effecting a settlement and on each occasion he has declined to adjust this dispute.

POSITION OF EMPLOYEES: It is submitted that the employees referred to in the statement of facts are employees subject to all the terms of the controlling agreement, and particularly Rule 2, in part reading:

"There may be one, two or three shifts employed.

Where three (3) shifts are organized for continuous service during a twenty-four (24) hour period, employees will be allowed twenty (20) minutes for lunch without loss of time."

Similarly, Rule 54-4 provides a differential for boilerwashers at Pine Bluff over those at outlying points, and other rules set forth numerous differentials for certain work at Pine Bluff.

These distinctions are due to the fact that Pine Bluff is the major repair point on the system, being one of the two points at which general repairs are made.

These distinctions emphasize the purpose and importance of that portion of Rule 2-1 providing that starting time be "based on actual service requirements." There is only one shift of engine inspectors employed at Commerce. If the starting time is made to conform with one of the machinists starting time, it will not be based on actual service requirements, and therefore will not be in accordance with the rule.

The assignment as it now stands was in effect for approximately eight months before any protest was made by the employes, which in itself shows that a mutual understanding existed as to the need for such an assignment.

For these reasons it is clear that the assignment of the engine inspector was made in conformity with the actual service requirements and was not in violation of the rules. Therefore, the carrier respectfully requests that the claim 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 waived right of appearance at hearing thereon.

This dispute involves the application of Rule 2 of the current agreement at Commerce, Texas.

The record shows the following assignment of machinists, machinist helpers and engine inspector to be:

2 machinists—2 machinist helpers	7:00 A. M. to 3:00 P. M.
1 machinist —1 machinist helper	3:00 P. M. to 11:00 P. M.
1 machinist —1 machinist helper	11:00 P. M. to 7:00 A. M.
1 engine inspector	6:00 P. M. to 3:00 A. M.

Rule 2 of the current agreement does not permit a different assignment of hours for engine inspector than those established for machinists and machinist helpers.

AWARD

Claim of the employes sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 5th day of April, 1945.