

Award No. 1083

Docket No. 999

2-C&NW-FT-'45

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee Richard F. Mitchell when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 12, RAILWAY EMPLOYES'
DEPARTMENT, A. F. OF L. (FEDERATED TRADES)**

CHICAGO AND NORTH WESTERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYES: 1 — That under the controlling agreement and particularly Rule 62, the renewal of locomotive engine truck brasses is machinists' work.

2 — That the carrier violated the controlling agreement and particularly Rules 29 and 53 when Engine Watchman L. A. Davies was assigned to renew the right back engine truck brass of Engine No. 1389 at Belle Fourche, South Dakota, on January 8, 1944.

3 — That the carrier be ordered to discontinue the use of engine watchmen to perform the aforesaid work.

EMPLOYES' STATEMENT OF FACTS: At Belle Fourche, South Dakota, the carrier does not regularly employ a mechanic in any of the six shop crafts, but does maintain a position in the classification of engine watchmen under the firemen and oilers agreement, and in the forepart of January, 1944, L. A. Davies was the occupant of that position.

On January 8, 1944, the right back engine truck brass run hot on Engine 1389, out of Newell enroute to Belle Fourche, South Dakota.

The carrier sent a new engine truck brass out of Rapid City, South Dakota to repair this engine, without a machinist and where machinists are regularly employed on the first and second shifts.

When Engine 1389 arrived at Belle Fourche, Engine Watchman L. A. Davies was used to repair this engine, removing this old journal brass and applying the new one.

The controlling agreement is effective July 1, 1921, and amended effective January 1, 1925.

POSITION OF EMPLOYES: It is submitted that the controlling agreement is applicable to Belle Fourche, South Dakota, in a like manner it is applicable elsewhere on the property or on line of road wherever locomotives fail and machinists' work is required on any engine such as is involved here in this dispute.

It is the position of the railway company that there was no violation of the provisions of Rules 29 and 53 or any other rules in current federated crafts' agreement when Engine Watchman L. A. Davies was used to renew engine brass on Engine No. 1389 at Belle Fourche, South Dakota, on January 8, 1944. The performance of that work by Davies was in conformity with an understood and recognized practice. It is also the position of the railway company that there is no justification for the employes' request that the carrier discontinue the use of engine watchmen to perform mechanics' work in line with the recognized practice of many years standing and that such request 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 waived right of appearance at hearing thereon.

It is the contention of the employes that Rule 29 was violated. Carrier contends that the practice complained of is not in conflict with Rule 29. The same has been the accepted understanding for better than twenty years.

This is a case in which the rule could be interpreted either way. Parties to the agreement have interpreted it for twenty years and in view of the long accepted understanding by the parties the claim cannot be sustained. See Award 974, Second Division.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling,
Secretary

Dated at Chicago, Illinois, this 21st day of June, 1945.