

Award No. 1383

Docket No. MC-1309-64

2-A&S-I-'50

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

UNITED RAILROAD WORKERS OF AMERICA, CIO
(Merged with Industrial Union of Marine and Shipbuilding
Workers of America, CIO)

ALIQUIPPA & SOUTHERN RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: That Carmen Mike Ditka, George Schuster, Robert Kosto, Rudy Hiber, S. Raddish, Bob Dye, Art Geohring, M. Mezmar and Wreck Crane Operator Sam Smith be additionally compensated under the current agreement for having been required to perform work of locomotive engineman, firing steam locomotive, groundmen (brakeman and conductor), and that accordingly the carrier be ordered to additionally compensate claimants for such service performed at the applicable rates.

EMPLOYEES' STATEMENT OF FACTS: Carmen Mike Ditka, George Schuster, Robert Kosto, Rudy Hiber, S. Raddish, Bob Dye, Art Geohring, M. Mezmar and Wreck Crane Operator Sam Smith, hereinafter referred to as the claimants, were regularly employed by the carrier at Aliquippa, Pa.

From March 3, 1949, until July 29, 1949, inclusive, claimants were required on various dates, at the direction of the carrier, to perform work of enginemen, fireman and groundman (brakeman and conductor) and to move cars and the wrecker derrick from track to track in and about the car shop tracks and yard.

For this service claimants have requested to be additionally compensated, but payment therefor has been declined to date. An itemized list indicating the dates of service rendered by each claimant and dates of such service is submitted herewith, marked Exhibit 1, and made a part hereof.

The agreement effective December 31, 1946 is controlling.

POSITION OF EMPLOYEES: The controlling agreement became effective December 31, 1946. It is submitted that the claimants are employees of the carmen craft and that provisions of the effective agreement, dated December 31, 1946, are definitely authorized to govern the parties signatory thereto.

It is the contention, therefore, that under terms of Article 20 "Definition of Employees", "The term employees as used herein refers to the men in the different departments and classes of occupations covered by these regulations," definitely is intended to cover work of the crafts covered by the agreement of December 31, 1946, and not to work of enginemen, firemen and groundmen (brakemen and conductor).

dispute in this matter with either organization. As previously stated, this present dispute covers the period between March 13, 1949 and July 30, 1949, when the yardmen did not have the right to the work in question either by established practice, agreement, or recommendation of the emergency board.

We hereby affirm that the above statements have all been discussed with the representatives of the employes during the various conferences held in the processing of these claims.

As the work for which additional pay is claimed was not at that time performed in violation of any agreement and did conform to long established past practice, we believe that the claims of the employes should be denied. Such denial would be in conformity with many decisions of your Board in dealing with past practices in absence of a rule.

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.

On the entire record and the circumstances surrounding this case, the claims are not justified.

AWARD

Time claims denied per findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 9th day of June, 1950.