

Award No. 1512
Docket No. 1411
2-NYNH&H-BM-'52

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Jay S. Parker when award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 17, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (Boilermakers)

THE NEW YORK, NEW HAVEN AND HARTFORD
RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES: 1. That under the current agreement the repairing of stationary boilers, including the washing of these boilers, and all inherent work in connection therewith belongs to the employees of the Boilermakers' craft.

2. That accordingly the Carrier be ordered to cease using other employees to perform the aforesaid work, and forthwith assign Boilermakers and Boilermaker Helpers to do it consistent with the current agreement.

EMPLOYEES' STATEMENT OF FACTS: The carrier operates four stationary boilers in its central heating plant at New Haven, Connecticut, and maintains these boilers by using other than employees of the boilermakers' craft to perform such work as:

(a) Inspecting, removing and applying hand hold plates and drum covers, including the cleaning, repairing and renewal of gaskets thereto.

(b) Inspecting, scaling and cleaning of drums, turbinizing the boiler tubes and repairing leaky boiler tubes.

(c) The periodic washing of the boilers, and including other work incidental to the assignment of boilermakers to the actual removal and the replacement of tubes in these boilers.

The agreement, effective July 1, 1945, between the carrier and System Federation No. 17, as subsequently amended, is controlling.

POSITION OF EMPLOYES: It is submitted that the work stipulated in the foregoing statement of facts is unambiguously defined in the aforementioned agreement as the work of boilermakers and boilermaker helpers. This is conclusively affirmed by the terms of the controlling agreement as follows:

"Effective from this date we, the undersigned, agree that no general chairman, or other officer, representative or member of any organizations signatory hereto, will individually request management to take work from one craft and give it to another craft."

The present request of the boilermakers' organization is diametrically opposed to that request. They are asking the Company to give to boilermakers at the central heating plant at New Haven, work which boilermakers have never performed there—indeed, no boilermakers have ever been employed at the central heating plant. The primary purpose of the maintainers' jobs is to do work which the boilermakers are claiming and which, if granted, would force maintainers—one with nearly twenty years of seniority—out of the service, notwithstanding that he is doing now exactly the same as he has done over the last twenty years. If the work which the maintainers are performing is to be classified as boilermakers' work, then the maintainers should be classified as boilermakers and not be forced out of the service and replaced by boilermakers.

A power plant maintainer's work involves many varied duties and requires versatile workers who have knowledge of and skill in doing whatever kind of work as is necessary to keep the miscellaneous equipment of a power plant in operating condition. On a railroad, this means twenty-four hours per day—365 days per year. There are no night shut-downs or Sunday or holiday periods when craftsmen can be brought in to do repairs.

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.

When the record is carefully reviewed it may be fairly inferred that since 1931 the work here involved has been performed at the carrier's central heating plant at New Haven, Conn., by employes classified as maintainers and helpers who are not members of the Boilermakers' craft. It also appears that since that time three agreements have been negotiated between the carrier and the organization, one effective April 9, 1937, another effective July 1, 1945, and another effective September 1, 1949, without reference to or specific inclusion of the maintainers and helpers or the work performed by them in the agreements. There is some contention between the parties as to when any question respecting such employes performing boilermakers' work was raised but it must be assumed the organization had knowledge or was bound to know of the existing situation at least since 1937, the date of the first agreement, and it cannot be denied the 1949 agreement was executed after the matter had been discussed without making any change in the 1945 contract. Notwithstanding we are asked to direct the carrier to cease using the maintainers and helpers at the plant in the performance of work which has been assigned to them for many years on the theory it is classified as boilermakers' work under pertinent rules of the current agreement.

Assuming that some of the work performed by the maintainers and helpers is work included in the scope of the agreement and hence to be regarded as work which would ordinarily belong to the boilermakers' craft it is our view that the foregoing facts and circumstances, and others appearing in the record to which no specific reference has been made, establish a long continued practice which, at least until the comparatively recent past, must be deemed to reflect an intent and understanding between the parties that the work in ques-

tion was properly assignable to such employees. In that situation it cannot be said there has been a violation of the agreement. It follows negotiation is required in order to effect a change.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 12th day of January, 1952.