

Award No. 1854

Docket No. 1716

2-UP-MA-'54

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Lloyd H. Bailer when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 105, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L. (Machinists)**

UNION PACIFIC RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES: (1) That under the current agreement the following Machinist Apprentices

Cordell E. Batts
James B. Garrett
Delbert J. Graham
Carl Ray Gravatt
Harold A. Greenhalgh
Clarence G. Mikesell
Harvey D. Peck
Leo J. Sorensen
Robert S. Tanner
Glenn Van Sickle

were unjustly deprived of their service rights on July 23rd through August 7th, 1952.

- (2) That accordingly the Carrier be ordered to reimburse the afore-said Machinist Apprentices for all time lost during the aforementioned period.

EMPLOYES' STATEMENT OF FACTS: The above named machinist apprentices, hereinafter referred to as the claimants, were employed as such at Pocatello, Idaho. On July 22, 1952 there were 218 rostered machinists and 32 rostered machinist apprentices regularly employed. As a result of a force reduction, this force was reduced to 86 machinists and 2 machinist apprentices on July 23. The force was restored August 8, 1952.

The case was handled with carrier officials who declined to settle the dispute.

The agreement effective September 1, 1949, as subsequently amended, is controlling.

POSITION OF EMPLOYES: It is submitted that the foregoing facts reflect that on July 22, 1952 the ratio of apprentices maintained by the

Following the reduction, the number employed in these categories were as follows:

BACK SHOP	ENGINE HOUSE	TOTAL
0 boilermakers	23 boilermakers	23 boilermakers
0 boilermaker's apprentices	1 boilermaker's apprentice	1 boilermaker's apprentice

With regard to the sheet metal worker's craft, the employment figures are as follows:

Before reduction:

BACK SHOP	ENGINE HOUSE	TOTAL
19 sheet metal workers	26 sheet metal workers	45 sheet metal workers
6 sheet metal worker's apprentices	2 sheet metal worker's apprentices	8 sheet metal worker's apprentices

After reduction:

1 sheet metal worker	26 sheet metal workers	27 sheet metal workers
0 sheet metal worker's apprentices	2 sheet metal worker's apprentices	2 sheet metal worker's apprentices

The same data as to electricians follows:

Before reduction:

BACK SHOP	ENGINE HOUSE	TOTAL
17 electricians	28 electricians	45 electricians
4 electrician's apprentices	2 electrician's apprentices	6 electrician's apprentices

After reduction:

5 electricians	28 electricians	33 electricians
0 electrician's apprentices	2 electrician's apprentices	2 electrician's apprentices

No protests concerning the ratio of apprentices were made following the reduction of forces at Pocatello by the sheet metal workers' organization, the boilermakers' organization, or the electricians' organization.

POSITION OF CARRIER: The organization, in the handling of this claim on the property, has maintained that the carrier violated Rule 27 when it reduced its machinists forces at Pocatello as a consequence of the steel strike in that it did not maintain the "ratio of apprentices".

Rule 27 provides in part that:

"In the reduction of the force the ratio of apprentices shall be maintained."

The agreement does not say—and does not intend—that the ratio to be maintained is the precise ratio existing prior to the reduction of forces. The parties have agreed in Rule 42 that:

“The ratio of apprentices in their respective crafts shall be not more than one to every seven mechanics.”

Thus, the parties have agreed only upon the maximum ratio of apprentices which may be maintained. No minimum has been agreed upon. That is left to the Carrier's managerial discretion. By this action, the organization in effect asks this Board to rewrite the agreement so that a minimum ratio of apprentices to mechanics will be included in the agreement. There is no basis for such a request and it is clearly beyond the province of this Board to rewrite the agreement.

That the ratio defined in Rule 42 and mentioned in Rule 27 is intended by the parties to be only a maximum ratio is also demonstrated by another provision of Rule 42:

“In computing the number of apprentices that may be employed in a trade on a division the total number of mechanics of that trade employed on the division will be considered.”

It must have been intended to give the carrier discretion in the number of apprentices to be employed (subject only to a maximum ratio); otherwise, the agreement would not have referred to the number of apprentices that “may be employed.”

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.

Petitioning organization contends ten designated machinist apprentices were unjustly deprived of their service rights by virtue of having been laid off during a specified period in July-August, 1952 and requests they be reimbursed for all time thereby lost.

This dispute concerns carrier's Pocatello (Idaho) Shops. Prior to and on July 21, 1952 the pertinent complements were: Back Shop—115 machinists and 30 apprentices; Engine House—76 machinists (spread among three shifts) and 2 apprentices. A decline in business made necessary a temporary layoff in the Back Shop, with the result that as of July 22 its complement consisted of only 8 machinists and 0 apprentices. The Engine House force remained undisturbed. Thus prior to the layoff the Shops' force consisted of 191 machinists and 32 apprentices, while immediately thereafter it included only 84 machinists and 2 apprentices.

Organization contends that in effectuating layoffs carrier is required by the agreement to maintain the same ratio of apprentices to machinists as exists immediately prior to the layoff. But because the pre-existing ratio in the instant case for the Pocatello Shops as a whole was 1 apprentice to 6 machinists, organization concedes that in making the layoff carrier could properly have reduced said ratio to 1 to 7. Carrier responds that it is not so restricted under the agreement—that it is entitled to fix any ratio it desires, and to change such ratio at will in connection with layoffs, so long as the ratio of 1 apprentice to 7 machinists is not exceeded.

The clause upon which organization's position rests is found in Rule 27. It reads: "In the reduction of the force the ratio of apprentices shall be maintained." The section of the agreement entitled "Apprentices" consists of Rules 40 through 42. The first sentence of Rule 42 declares: "The ratio of apprentices in their respective crafts shall be not more than one to every seven mechanics." A subsequent provision in the same rule reads: "In computing the number of apprentices that may be employed in a trade on a division the total number of mechanics of that trade employed on the division will be considered." We are not advised concerning the respective number of machinist apprentices and machinists employed on the division at the time in question but this omission of fact is not material to the present determination.

The question here is whether the sentence: "In the reduction of the force the ratio of apprentices shall be maintained," as used in Rule 27 means only a maximum ratio as expressly stated in Rule 42, or whether it means such ratio as exists immediately prior to a particular layoff, and thus—in that sense—a fixed or minimum ratio as well. We think the former is the correct interpretation to be given the quoted Rule 27 terminology. Moreover, in our judgment, it is the only reasonable and practical interpretation that can be applied. It is generally understood that the purpose of the quoted provision in Rule 42 is to prevent the carrier from employing more than 1 apprentice to 7 machinists. There are numerous other special provisions applying to the employment of apprentices. Under Rule 42, for example, the carrier cannot assign apprentices to work on night shifts. They are on a separate seniority roster from machinists and cannot be used to displace machinists. The intent of the agreement as a whole is clearly that apprentices comprise a category distinct from machinists, and that they are to be separately treated. It follows that the interpretation advanced by the organization would be wholly impractical in application and contrary to the intent of the agreement as a whole.

In our view the Rule 27 phraseology "the ratio of apprentices shall be maintained" in connection with layoffs means no more than that the Rule 42 restriction upon the maximum number of apprentices in relation to machinists shall not be exceeded when layoffs occur. Expressed somewhat differently, it means that management may not exceed the 1 to 7 ratio through the device of laying off a disproportionate number of machinists. And contrariwise, Rule 27 places no floor on the minimum ratio of apprentices to machinists that may be retained pursuant to layoffs.

In view of the foregoing, we are of the opinion and find that the ten designated machinist apprentices were not unjustly deprived of their service rights as petitioner contends, and that the claim must therefore be denied.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 10th day of December, 1954.