

Award No. 1915

Docket No. MC-1507-97

2-DL&W-I-'55

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

PARTIES TO DISPUTE:

MERVIN FAUX, ET AL, (Petitioners)

**THE DELAWARE, LACKAWANNA AND WESTERN
RAILROAD COMPANY**

DISPUTE: CLAIM OF EMPLOYES: 1. That under the current agreement Carmen and Carmen Apprentices are improperly assigned to perform Carmen Helpers' work at the Keyser Valley Car Shops, Scranton, Pa.

2. That accordingly the Carrier be ordered as a result of the arbitrary adoption of the aforesaid policy to compensate the following Carmen Helpers for any and all time lost from work by each individually since January 7, 1954:

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|-----------------------|----------------------|
| a) Mervin Faux | k) Martin McNulty |
| b) Philip Gallucci | l) Friend Green |
| c) Robert W. Harper | m) Charles W. Nahlen |
| d) Frank Paris | n) Thomas M. Hall |
| e) Joseph DeRiggi | o) Gerald McGonigle |
| f) George A. O'Malley | p) Earl L. Parsons |
| g) Stephen Derenick | q) James H. Decker |
| h) Clarence T. Weston | r) Joseph Larussa |
| i) James Petrillo | s) John H. Koziol |
| j) Joseph Kugler | t) Frank H. Salzmann |

EMPLOYES' STATEMENT OF FACTS: At Keyser Valley car shops, Scranton, Pennsylvania, the carrier maintained until January 7, 1954, a force of approximately 200 carmen, 65 carmen helpers, and 60 carmen apprentices, or a ratio of about 1 carman helper to 3 carmen, as authorized, and a ratio of about 1 carman apprentice to 3½ carmen, exceeding the authorized quota of 1 carman apprentice to every 5 carmen. (See Par. 6, Rule 49, Ratio and Working Conditions—Apprentices, of the current agreement), in the car department whereat passenger and freight cars, both wood and steel, are repaired, maintained, and dismantled, and this car shop operates during the hours of 7:00 A. M. to 12 Noon and from 12:30 P. M. to 3:30 P. M.

On January 7, 1954, 27 carmen helpers were furloughed, without proportionate layoffs in the other related classifications of carmen and carmen apprentices, especially this latter overstaffed classification, with whom the carmen helpers work daily as a team. Yet, work of the same relative nature continues being performed at the car department of the Keyser Valley car shops of the Delaware, Lackawanna and Western Railroad Company necessitating the performance of carmen helpers work by carmen and carmen apprentices.

adversely to the claimants represented by Attorney Solfanelli and (b) the claim brought to this Board is without merit or substance and should be dismissed.

The concurring views of the general chairman and carrier must be upheld.

“There is and can be no stronger indication of what interpretation this Division in any case of doubt should adopt than that which the parties have given a rule * * *” (See First Division Awards 9291, 1082, 1084, 1085)

The case is all the stronger where the parties entertained no doubt as to the meaning of the rules.

The Carrier denies each and every allegation of the claimants at variance with carrier's position and pleadings.

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.

The parties to said dispute were given due notice of hearing thereon.

The parties were afforded a hearing on January 7, 1955. The record discloses that the subject matter of this petition was handled in accordance with Rule 30 of the controlling agreement and adjusted by the statutory representatives. We must therefore hold that this Board has no jurisdiction over this case, since one of the conditions required by the Railway Labor Act has not occurred—namely, a failure of the parties to reach an adjustment.

AWARD

Petition dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 13th day of April, 1955.