

Award No. 2916
Docket No. 2626
2-CMStP&P-MA-'58

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee James P. Kiernan when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 76, RAILWAY EMPLOYES'
DEPARTMENT, AFL-CIO (Machinists)**

**CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY**

DISPUTE: CLAIM OF EMPLOYES:

(1) That under the current Agreement Machinists Francis J. Basche, F. S. Ratachic and Advanced Machinist Francis Kocho were wrongly laid off and their work assigned to Foremen.

(2) That accordingly the Carrier be ordered to discontinue using Foremen to perform the Craft's work, and compensate the above named Claimants at Machinists rate of pay, beginning March 21, 1956 until such time as they are properly assigned at Green Bay Roundhouse.

EMPLOYES' STATEMENT OF FACTS: On March 2, 1956 notices were posted by the master mechanic to all concerned in the Middle District, of vacancies for three (3) foremen positions at Green Bay Roundhouse.

On March 9, 1956 a notice was posted at the Green Bay Roundhouse notifying the above named claimants that they were to be laid off at the close of the shift March 15, 1956. In a notice posted March 15, 1956 the claimants were notified that the lay off notice of March 9, 1956 was extended and would be effective March 20, 1956.

Immediately on March 21, 1956 the duties of the three (3) foremen were extended to include the duties previously performed by machinists and helpers. The duties of which are provided for in Rules 51 and 53 of the Five Shop Crafts Agreement, System Federation No. 76.

between the parties followed and on or about January 20, 1955 System Federation No. 76 applied to the Mediation Board for its services. The case was docketed as N.M.B. Case No. A-4782. The parties met with the mediator during the period from November 17 through December 14, 1955 and on the latter date the parties entered into a Mediation Agreement, copy of which is submitted herewith as carrier's Exhibits C-1, C-2 and C-3.

On April 23, 1956 System Federation No. 76, comprising all of the shop crafts, through Executive Secretary A. H. Sweitzer, wrote Mr. Downing registering complaint about foremen performing mechanic's work. Copy of that letter is submitted herewith as carrier's Exhibit D. To that letter Mr. Downing replied on May 1, 1956 and submitted as carrier's Exhibit E is copy of Mr. Downing's letter. There is submitted as carrier's Exhibit F copy of letter written Mr. Downing by System Federation No. 76 through Executive Secretary A. H. Sweitzer, on May 31, 1956 in which conference on the matter was requested. Mr. Downing replied under date of June 21, 1956 setting July 11, 1956 as date for conference. Copy of Mr. Downing's letter is submitted herewith as carrier's Exhibit G. System Federation No. 76 wrote Mr. Downing June 26, 1956 accepting July 11, 1956 as date for conference. Copy of that letter is submitted and identified as carrier's Exhibit H. Conference was held on July 11, 1956 at which time the carrier again explained its position. Then on January 16, 1957 System Federation No. 76, through Executive Secretary A. H. Sweitzer, wrote Mr. Downing withdrawing their claim with regard to foremen performing mechanic's work at points where no mechanics are employed. Copy of that letter is submitted herewith as carrier's Exhibit I.

POSITION OF CARRIER: The claim as first presented was in behalf of "Machinist Francis J. Basche, Advanced Machinist Francis Kocha and all others represented by this Organization who have been laid off or otherwise affected by the Carrier's action in assigning all of the work at Green Bay to foremen". As stated in Mr. Downing's letter of June 21, 1956 (carrier's Exhibit A) it is the carrier's position that the claim insofar as it pertains to unnamed employes is not a proper one. The provisions of Article V of the agreement of August 21, 1954 requires all claims to be presented "by or on behalf of the employe involved" and it is the carrier's position that the only claims properly presented are in behalf of Machinist Francis J. Basche and Advanced Machinist Francis Kocha. The name of claimant F. S. Ratachic which has now been added to the claim has not been properly presented under the provisions of Article V.

It is the carrier's position that as no mechanics were employed in the locomotive department at Green Bay, Wisconsin on and after March 21, 1956 (except for the one boilermaker used for making repairs to stationary boiler during the period from August 1, 1956 through September 1, 1956) in view of the provisions of Rule 32(a) quoted above, no violation occurred on March 21, 1956 or any day thereafter due to foremen performing alleged mechanic's work at Green Bay, Wisconsin.

The carrier respectfully requests that the claim 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 were given due notice of hearing thereon.

The right of an employer, including the carrier herein, to arrange and control its forces and manage its business, has long been recognized, subject to its contractual obligations and as it may be limited by law.

On March 20, 1956 by bulletin, the carrier furloughed five employes at Green Bay, Wisconsin, namely—

F. S. Ratachic—Boilermaker	Francis J. Bascha—Machinist
F. P. Ratachic—Machinist	Francis Kocha—Electrician
J. E. Roarty—Electrician	

On March 21, 1956—Machinist Ratachic was assigned as Foreman and Electrician Roarty was assigned as Assistant Foreman, Machinist Basche was assigned as Helper. As of March 21, 1956 there were no mechanics employed at Green Bay, or at any point where claimants claim compensation for machinist's work.

Rule 32 permits foremen to perform mechanics work where no mechanics are employed.

During the year 1949, there were 63 employes in the locomotive department forces. This number was reduced to 48 during 1950, to 29 during 1954, to 16 during 1955 and as of March 21, 1956, to 9, including two foremen. The dieselization has caused a continual reduction in the amount of mechanics work at Green Bay.

We do not find that the claimants were "wrongly laid off".

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 30th day of July, 1958.

DISSENT OF LABOR MEMBERS IN AWARD NO. 2916

The majority ignored in its entirety the Mediation Agreement dated December 14, 1955, effective January 1, 1955, which discontinued "working foremen" and "equipment maintainers" and prescribed that such positions would not be established in the future except by agreement between this carrier and the System Federation. When the carrier laid off the machinists employed at Green Bay, Wisconsin, and established working foremen positions to perform machinists' work, it violated the current agreement as revised by the Mediation Agreement.

The current agreement, as amended by the Mediation Agreement, recognizes and preserves the rules, rates of pay, and working conditions of the claimants and stands as a protest against the erroneousness of Award No. 2916.

/s/ James B. Zink

/s/ R. W. Blake

/s/ Charles E. Goodlin

/s/ T. E. Losey

/s/ Edward W. Wiesner