

Award No. 3016

Docket No. 2732

2-MP-MA-'58

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee D. Emmett Ferguson when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 2, RAILWAY EMPLOYES'
DEPARTMENT, A.F. of L.-C. I. O. (Machinists)**

MISSOURI PACIFIC RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES:

1. That under the Agreement, particularly Rules 52A and 26A, other than Machinists were assigned to inspect and make repairs to diesel 203A at Little Rock, Arkansas.

2. That Machinist J. A. Zionce be compensated in the amount of four hours pay at the punitive rate.

EMPLOYES' STATEMENT OF FACTS: On June 11, 1956 at approximately 8:30 P. M. the crew of diesel 203A reported by telephone to the outside foreman at the service track, North Little Rock Diesel Facilities, that diesel 203A had died and that they were not able to get it started. This message was carried to General Foreman McCaddon, who in turn sent word to Electrical Foreman Dunlap and the two of them in the company truck drove down into the yards and McCaddon made the inspection of the 203A, locating the trouble and starting the diesel unit.

POSITION OF EMPLOYES: The carrier was in violations of Rule 52A, herewith quoted in part:

"Machinists' work including regular and helper apprentices, shall consist of . . . engine inspection."

when General Foreman McCaddon and Electrical Foreman Dunlap took the company truck and went to the yards and inspected and made repairs to diesel 203A. There are employed at the North Little Rock Shops a large force of machinists who work three shifts, 24 hours a day.

identify said instructions. During the conference on April 1, 1957, we showed the general chairman the instructions issued by Mr. L. R. Christy, chief mechanical officer under date of September 25, 1949, concerning the starting of diesel locomotives after they have been shut down for **48 hours or longer**. Obviously these instructions are not applicable to the instant case. A copy of these instructions is submitted herewith and identified as carrier's Exhibit A.

In addition to the fact no inspection of diesel unit 203A was required by the instructions referred to in Exhibit A, or by any other instructions, machinists do not, in any event, have the exclusive right to inspect or check locomotives even at terminals where mechanical facilities are maintained. Obviously there is no basis for contending these foremen inspected diesel unit 203A. Assuming, arguendo, the foremen did inspect said unit, under the circumstances present here there can be no violation of the Shop Crafts Agreement.

For the reasons fully set forth herein, there is no basis for this claim and it should therefore 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.

When Diesel 203A stalled at Little Rock, about three miles from the carrier's North Little Rock facilities, the general foreman and the electrical foreman drove to the scene, found the unit had overheated, and activated a circuit breaker safety device.

An electrical circuit jumper was placed around it and the train was moved off the main line. The employes claim that this work, particularly the inspection feature of it, violated Rules 26A and 52A. The carrier takes the position that it was an emergency situation. Although noting the proximity of available machinists and the time factors shown, we are of the opinion that this situation falls within the definition of an emergency.

The train stalled, the crew could not start the diesel, and a radical solution, (the circuit jumper) was adopted to meet the unforeseen contingency which had blocked operations.

AWARD

The claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 25th day of November, 1958.

DISSENT OF LABOR MEMBERS TO AWARD NO. 3016

The majority choose to ignore Rule 52 (a) Machinists' Classification of Work Rule, and Rule 26 (a) of the current agreement and when other than a machinist was sent out to do machinists' work, it violated the current agreement.

The current agreement recognizes and preserves the rules, rates of pay and working conditions of the claimant and stands as a protest against the erroneousness of Award No. 3016.

R. W. Blake

C. E. Goodlin

T. E. Losey

Edward W. Wiesner

James B. Zink