

Award No. 3549

Docket No. 3478

2-L&N-EW-'60

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Mortimer Stone when award was rendered.

PARTIES TO DISPUTE.

**SYSTEM FEDERATION NO. 91 RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. - C. I. O. (Electrical Workers)**

LOUISVILLE & NASHVILLE RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That the Carrier violated the provisions of Paragraph (a) of Article V—Carrier's Proposal No. 7 of the May 20, 1955 Agreement by their refusal to pay claim in favor of sixteen (16) electricians whose names appeared on the L&N Radnor Shop Overtime Board in that they did not answer claim within the required sixty (60) days.

2. That Carrier violated the applicable working agreement when it assigned the work of inspecting, maintaining and repairing of electrical equipment on L&N locomotives to employees of the Nashville, Chattanooga and St. Louis Railway.

3. That accordingly Carrier be ordered to:

(a) Allow claim for eight (8) hours each in favor of sixteen (16) electricians whose names appear on the Overtime Board at Rodnor Shop.

(b) Re-assign the inspecting, maintaining and repairing of electrical equipment on L&N locomotives to L&N Employees and compensate them for all time lost as a result of assigning their work to NC&St. L Employees.

EMPLOYEES' STATEMENT OF FACTS: At Radnor, Tennessee, the Louisville and Nashville Railroad Co., hereinafter referred to as the carrier maintains a locomotive repair shop wherein for many years it has serviced locomotives assigned to the area.

Beginning October 10, 1957 the carrier assigned eight (8) of its locomotives to the Nashville, Chattanooga and St. Louis Railroad Co., West Nashville Shops for service and repair by the latter's employees. Subsequent thereto the carrier furloughed from its Radnor Shops twenty-six (26) electricians.

Under date of November 4, 1957, Local Chairman J. W. Tripp, Jr. submitted a time claim in writing to Electrical Foreman C. O. Bandy for eight (8) hours each in favor of sixteen (16) electricians on the Rodnor Shop overtime board for

locomotives initialed "NC&StL" were used over L&N trackage in place of locomotives with L&N initials on them. From an operating standpoint it was more desirable to have those locomotives involved in this dispute serviced in the former NC&StL shops at West Nashville, Tennessee. This arrangement became effective October 1, 1957, and the locomotives were first placed in the NC&StL Shops beginning October 3, 1957. No employees at Radnor or West Nashville were deprived of any work because of the swapping of the locomotives and continued to work on their regular assignments without loss of time.

POSITION OF CARRIER: It is the position of carrier that the practice followed in this instance of having its locomotives serviced at the most desirable location constituted no violation of the agreement, nor have the employees quoted any agreement rule which has been violated. The fact that these locomotives had L&N initials on them is of no importance. They were and are the property of this carrier and were being used in the handling of certain "so-called" NC&StL trains.

Copy of letter of Local Chairman J. W. Tripp, Jr., dated November 4, 1957, submitting this claim, is submitted herewith and identified as Exhibit 3A.

It is true that Foreman C. O. Bandy failed to deny the claim within the time limit prescribed by the agreement. However, carrier calls attention to the fact that nowhere in Mr. Tripp's letter is any specified amount of time claimed.

Also submitted herewith and identified as Exhibit B, is copy of Mr. Tripp's letter of January 15, 1958, addressed to Mr. C. O. Bandy, electrical foreman, Nashville, Tennessee. It may be noted that he makes the claim on the following basis:

"These claims are subject to adjustment in accordance to the actual work performed from October 10, 1957 through January 15, 1958."

January 16, 1958, is the date that the L&N agreement became effective for NC&StL and L&N employees.

While the employees contend that claims are allowable under the provisions of Rule 5, carrier calls attention to the fact that no amount of time is claimed in the original claim and therefore nothing is due. Local Chairman Tripp must have realized his oversight for on January 15, 1958, he submitted an identical claim. However, he did specify that the claim was subject to actual amount of work performed from October 10, 1957 through January 15, 1958. This claim was denied January 21, 1958 by Foreman C. O. Bandy. The latter claim would amount to but little, for the reason that the locomotives were so cycled that there was an average of only two in for servicing at the West Nashville, Tennessee, shops during a 24-hour period.

Carrier feels that under existing circumstances claim should be declined. Particularly is this true because no violation of the skilled agreement has been shown.

FINDINGS: The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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.

Parties to said dispute were given due notice of hearing thereon.

The merits of this case were not argued. The Employees rely on the fact that Carrier failed to give timely notice of disallowance as required by the Time Limit Rule. In such case the rule requires that the claim "shall be allowed as presented." That must refer to the claim as presented to the Carrier for allowance since that was the only claim it could allow or disallow.

The claim as presented to the Carrier was a monetary claim only. In pertinent part it reads:

"There are 30 NC Electricians and of this number I am turning in 16 time claims for each day these L & N Engines were worked by the NC Electricians as these L&N Engines still belong to the L & N Electricians to be maintained at Radnor. The work performed by the NC Electricians consisted of Overtime, trips Monthly's and light repairs. Also, the Machinist are to be considered as time claimed for the record depending on what work they may have performed belonging to the L & N Electricians at the Radnor Shop.

The starting of these claims began October 10, 1957 thru the present date as a continuing time claim for each day forward until corrective adjustments are made. Radnor Overtime Board is to receive these claims."

This claim as submitted is so vague, indefinite and uncertain as to make it apparently impossible to compute with certainty the amount intended to be claimed, and, if computed, it would be impossible to determine with certainty the names or identity of the several claimants in whose behalf the claim was intended to be presented and the specific amount intended to be claimed in behalf of each.

The first requirement of the Time Limit Rule is that a claim or grievance be presented in writing by or on behalf of the employee involved. When there is no identifiable claimant or ascertainable amount **claimed there is no claim** which can be allowed by the Carrier or sustained by the Division.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois this 27th day of September 1960.