

Award No. 3665

Docket No. 3300

2-PRR-MA-'61

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 152, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. — C. I. O. (Machinists)**

THE PENNSYLVANIA RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

- (1) That the overhauling and maintenance of Crane Cars comes within the scope of the current Agreement as Machinists' work.
- (2) That the Pennsylvania Railroad Company, by unilaterally transferring the repairs and maintenance work on Crane Car No. 89867 to Truck Sales and Service Garage, violated the current Agreement.
- (3) That accordingly the Pennsylvania Railroad Company be ordered to:
 - (a) Desist from unilaterally transferring the repair and maintenance work on said Crane car to outside local garages.
 - (b) Compensate Machinists B. B. DeMuth and H. A. Huebner in the amount of five (5) days' pay each because of this violation.

EMPLOYEES' STATEMENT OF FACTS: Machinists B. B. DeMuth and H. A. Huebner, hereinafter referred to as the claimants, are regularly employed, bulletined and assigned as Grade "C" machinists, in the carrier's Denison, Ohio Enginehouse. Claimant B. B. DeMuth has a first shift position with bulletined hours of 7:00 A. M. to 3:30 P. M., Monday through Friday, with Saturday and Sunday rest days. Claimant H. A. Huebner holds a vacation relief position (bulletined), and was filling a vacation vacancy on the third shift at the time of the claim. Claimant B. B. DeMuth has a machinist seniority date of October 19, 1922. Claimant H. A. Huebner has a seniority date as machinist from June 21, 1923. The duties of the position held by B. B. DeMuth, as advertised and awarded, consist of the following: "Making maintenance repairs to machinery and equipment, inspecting and making maintenance repairs to trucks and buses; and in addition making maintenance repairs to air com-

It is respectfully submitted that the National Railroad Adjustment Board, Second Division, is required by the Railway Labor Act to give effect to the said agreement, which constitutes the applicable agreement between this carrier and the Railway Employees' Department, A. F. of L., and to decide the present dispute in accordance therewith.

The Railway Labor Act, in Section 3, First, subsection (i) confers upon the National Railroad Adjustment Board the power to hear and determine disputes growing out of "grievances or out of the interpretation or application of agreements concerning rates of pay, rules or working conditions." The National Railroad Adjustment Board is empowered only to decide the said dispute in accordance with the agreement between the parties to it. To grant the claim of the organization in this case would require the Board to disregard the agreement between the parties, hereinbefore referred to, and impose upon the carrier conditions of employment and obligations with reference thereto not agreed upon by the parties to the applicable agreement. The Board has no jurisdiction or authority to take any such action.

CONCLUSION

The carrier has conclusively shown that there has been no violation of the applicable agreement in the instant case and that the employees' claim is without merit.

Therefore, the carrier respectfully submits that your Honorable Board should deny the claim of the organization in this matter.

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 employees 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.

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

This claim involves the same assigned positions, the same agreement, and the same contentions as decided in Award No. 3663. The facts here are similar except that the work here claimed was that of maintenance and repair of an auto truck crane assigned to the Maintenance of Equipment Department instead of trucks assigned to Maintenance of Way Department as in the prior case. We find no distinction in principle.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 2nd day of February, 1961.

LABOR MEMBERS DISSENT TO AWARDS NOS. 3663, 3664 and 3665

The evidence of record in this dispute shows that the automotive equipment involved in this dispute had been serviced and repaired in the shop at Dennison, Ohio, and the majority so state in the findings — then they proceed to erroneously construe the intent and meaning of Rule 5-F-1 and the Graded Work Classification of the current agreement, Therefore Awards Nos. 3663, 3664 and 3665 are in error.

Edward F. Wiesner

R. W. Blake

Charles E. Goodlin

T. E. Losey

James B. Zink