

Award No. 4076
Docket No. 3913
2-WAB-MA-'62

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Carroll R. Daugherty when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 13, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L. — C. I. O. (MACHINISTS)**

WABASH RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES:

(1) That the Carrier violated the current agreement when it assigned other than the Machinist Craft to welding flat spots on tires of Diesel Locomotive No. 1014 at Missouri City, Missouri, on January 7, 1960.

(2) That the Carrier be ordered to compensate Machinist V. T. Ware in the amount of thirteen (13) hours at overtime rate for work for which he was available but not permitted to perform on January 7, 1960.

EMPLOYES' STATEMENT OF FACTS: On January 7, 1960, it was necessary for the Wabash Railroad Company, hereafter referred to as the carrier, to send two machinists from North Kansas City, Missouri, Roundhouse to Missouri City, Missouri, for emergency repairs to passenger diesel locomotive No. 1014. While working the locomotive it was discovered that all tires had flat spots. The two machinists were not qualified welders to perform this type of welding and a boilermaker from Moberly, Missouri, was called to perform the welding which required thirteen hours to complete. The carrier claims it used the boilermaker for the welding because the assigned machinist welder was on vacation.

However, Machinist V. T. Ware, hereafter referred to as the claimant, is an experienced welder and was qualified, available and willing to perform the work.

V. T. Ware is employed as a machinist at the carrier's Diesel Shop at Moberly, Missouri, with a seniority date of July 5, 1956. Prior to this date he was employed as a boilermaker at the carrier's Decatur Roundhouse and Moberly Shop. He was furloughed at Moberly the early part of 1956 and because of the need for more machinist welders at Moberly and his ability, it was agreed by the carrier and machinist organization, to employ him as a machin-

est of efficiency and economy." The carrier was faced with an emergency which involved a diesel unit tied up on the road between terminals. Prompt and positive action was required to cope with the situation. It is an indisputable fact that it was necessary in the interest of efficiency and economy for the carrier to assign a welder of proven ability and the rule clearly gave the carrier the right to assign a boilermaker welder to do the work of the machinist craft, regardless of the fact there may be employed a welder or welders of the machinist craft.

The carrier affirmatively states that the substance of all matter referred to herein has been the subject of correspondence or discussion in conference between the representatives of the parties hereto.

The contentions of the committee should be dismissed and the claim 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.

Parties to said dispute waived right of appearance at hearing thereon.

Here one of the units of a diesel locomotive became disabled and was detached from its train at Missouri City. Two machinists, neither of whom carrier in good faith believed had welding experience and ability, were sent there to repair said unit. They discovered that the treads of the wheels thereon had flat spots. Carrier, learning this, sent a welder-boilermaker, rather than a welder-machinist, from Moberly to Missouri City to perform the necessary welding. The former was off duty and the latter was working on his regular shift when the need for a welder became known to carrier.

In support of the claim in favor of the machinist welder, petitioner relies on the language of Rules 55(a) and 29(a), while carrier relies on Interpretation (a) to Rule 29, which says that, "when necessary in the interest of efficiency and economy," carrier may use a welder of one craft to do the welding work of another craft. Carrier presents evidence, not successfully challenged by petitioner, that its action here saved carrier six hours of pay at the overtime rate.

The Division then must find that said Interpretation, as applied to the facts of the instant case, controls here. Therefore, the claim cannot be upheld.

It should be understood that nothing herein may be used to defeat the proper application of Machinist overtime rules to appropriate circumstances.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 15th day of November 1962.

DISSENT OF LABOR MEMBERS TO AWARD NO. 4076

The majority is in error when they state:

"In support of the claim in favor of the machinist welder, petitioner relies on the language of Rules 55 (a) and 29 (a), while carrier relies on Interpretation (a) to Rule 29, which says that, 'when necessary in the interest of efficiency and economy,' carrier may use a welder of one craft to do the welding work of another craft. Carrier presents evidence, not successfully challenged by petitioner, that its action here saved carrier six hours of pay at the overtime rate."

and,

"The Division then must find that said Interpretation, as applied to the fact of the instant case, controls here. Therefore, the claim cannot be upheld."

The petitioner challenged the carrier's position as to efficiency and economy in "Second" of their rebuttal. The rate for machinist welder working and available would have been the same rate received by the boilermaker.

Therefore, Rule 55 (a) and Rule 29 (a) apply. However, Interpretation to Rule 29 (a) has no bearing in this claim.

The award should have been in the affirmative. We dissent.

C. E. Bagwell

T. E. Losey

E. J. McDermott

R. E. Stenzinger

James B. Zink