

The Second Division consisted of the regular members and in addition Referee Harold M. Weston when award was rendered.

Parties to Dispute: (District No. 19, International Association of
(Machinists and Aerospace Workers, A.F.L. - C.I.O.
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(The Western Pacific Railroad Company

Dispute: Claim of Employes:

1. That the Carrier violated Rules 30 (a) and 51 of the Agreement effective February 1, 1946 and Article III of the Agreement dated September 25, 1964, when it abolished position held by Machinist R. G. Chase (hereinafter referred to as Claimant) at West Oakland Diesel Facility on March 28, 1973, and assigned a working supervisor to perform Machinists' work.
2. That, accordingly, the Carrier be ordered to compensate Claimant eight (8) hours pay at the straight time rate commencing on May 14, 1973, and for each day subsequent thereto that the Carrier continues to permit a working supervisor to perform Machinists' work at it's West Oakland Diesel Facility, and it further be ordered to re-establish Claimant's position at the diesel shop.

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.

The present claim is based on the contention that a mechanical foreman performed machinists' work at the West Oakland Diesel Facility after Carrier had abolished the remaining two machinist positions at that facility.

No evidence was presented while the claim was being processed on the property that any duties belonging to machinists had been performed by the mechanical foreman or any non-machinist. This shortcoming is critical since it is incumbent upon Petitioner to establish all essential elements of its claim, and this Board will not engage in conjecture or assumption as to the nature of the work that remained at the Diesel Facility after machinist positions had been eliminated there.

While under Article III of the September 25, 1964 Agreement Petitioner had the right to request a joint check on the property, there is no indication that it ever did so or that Carrier refused to cooperate in that regard. Under the circumstances, where no proof whatsoever had been presented on the property in support of Petitioner's theory that machinist work was being performed by a non-machinist, it was untimely to produce evidence with respect to that point for the first time in submissions to this Board.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 15th day of August, 1975.