

NATIONAL RAILROAD ADJUSTMENT BOARD
Second Division

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 6, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (MACHINISTS)
CHICAGO, ROCK ISLAND AND PACIFIC RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES.—That Machinist John Masur be returned to his position as lead machinist at Eldon, Mo., and compensated for all losses as result of being transferred.

EMPLOYEES' STATEMENT OF FACTS.—Machinist John Masur, of Eldon, Mo., has seniority at that point since August 3, 1922. In 1928 the night foreman job was abolished and Machinist John Masur was appointed lead machinist with a differential rate of 86¢ per hour. Handling the engine crews board, answering telephone, hostling engines, making out reports, doing inspecting and machinist work on five engines tying up at Eldon, and held responsible for the operation of roundhouse and other employes working therein, also for dispatching all other work on the locomotives. His work was satisfactory for a period of seven years. On January 3, 1936, he was displaced by a working foreman by the management; the working foreman has no seniority at Eldon, Mo. Violation of Rules 26, 30, 31, and 60 of the agreement October 1, 1935.

POSITION OF EMPLOYEES.—Employes contend that a working foreman performs the work of a machinist whose duties are outlined in Rule 60 of our agreement. We contend work should be performed by a machinist according to Rule 31 and seniority Rule 30, and when a foreman works with tools, inspects, and makes repairs to machinery, he ceases to be a supervisor. When appointing a foreman at Eldon, Mo., the job was bulletined for 12 hours per day, 7 days per week, salary \$190.00 per month. Doing the inspecting and repairing of locomotives or machinery at this rate is a violation of Rule 110, which states the minimum hourly rate of pay, the least that will be paid various classifications, machinists 81¢. The monthly salary of the foreman who is doing machinist work is a reduction in wages and is a violation of Rule 111 of the agreement October 1, 1935. System Federation No. 6 was not given thirty days' written notice as provided for in Rule 111. Machinist John Masur bid on this working foreman job in line with Rule 17 and his bid was ignored. We contend that John Masur is entitled to return to Eldon, continue to hold his job in line with his seniority, as his work has been satisfactory over a period of fourteen years, and be compensated for the loss of time and the expense of being transferred.

CARRIER'S STATEMENT OF FACTS.—On January 4, 1936, position of lead machinist held by John Masur at rate of 86¢ per hour was discontinued at Eldon, Mo., and on that date position of night roundhouse foreman was established.

John Masur was permitted to place himself as machinist, 81¢ per hour, at Armourdale, Kansas, on January 8, 1936, and he has been in continuous service at Armourdale since January 8, 1936.

In accordance with requirements of the foremen's agreement, position of night roundhouse foreman was bulletined and position was assigned to the senior qualified foreman, Mr. H. S. Ferguson.

POSITION OF CARRIER.—On January 1, 1936, the only mechanic employed in the roundhouse was John Masur, who was designated by the carrier as a lead machinist, and in addition to performing machinist work, he, being the only mechanic at that point in the roundhouse, also performed any necessary boilermaker's work, blacksmith's work, coppersmith's work, or electrician's work. However, the desired results were not being secured in the handling of power at Eldon, and to provide proper supervision it was felt advisable to create position of night foreman, thereby having someone responsible for the operation of roundhouse and maintain proper supervision over the entire mechanical department at night.

Rule 31 of the current schedule with the machinists' organization reads:

"**RULE 31. Assignment of work.**—None but mechanics or apprentices regularly employed as such shall do mechanic's work as per special rules of each craft, except foremen at points where no mechanics are employed.

"This rule does not prohibit foremen in the exercise of their duties to perform work.

"At points or where three shifts are worked and there is not sufficient work to justify employing a mechanic of each trade, the mechanic or mechanics employed at such points will, as far as capable, perform the work of any trade that may be necessary."

The employes have submitted no evidence to the carrier indicating a violation of this Rule. All foremen, in the course of their duties as such, perform certain work of inspection, working with mechanics and helpers, etc., which is permitted under the Rule, and our information is that this is the situation as it exists at Eldon, Mo.

During certain short periods since January 1, 1936, when there has been specific work for a machinist to perform, such as a heavy run of business or repairs to turntable, a machinist has been called to do such work.

As we understand the claim of the employes, it is that we reinstate the position of lead machinist at Eldon, Missouri, and return Mr. Masur to service as lead machinist at Eldon, Missouri. We also understand that the employes are contending for expenses of Mr. Masur since going to Kansas City on January 8, 1936.

We wish to point out that there is no obligation or requirement that a lead machinist be maintained at any time at any of our shop points. When a lead machinist or mechanic is required by the carrier, his rate as such is 5¢ per hour in excess of the mechanics' rate, as provided in Rule 34 of the current agreement with the shopmen, which reads:

"**RULE 34. Lead workmen.**—Mechanics or helpers in their various classifications of work, *designated* to act as leaders in connection with their work, assigning and directing the work of other members of a gang (consisting of at least three (3) men) will be paid five (5) cents per hour above the rate paid mechanics or helpers." [Italic ours.]

Under this Rule, the carrier has the sole right to designate those mechanics or helpers who will be considered as lead men, and it will further be noted there is no obligation that mechanics be paid the lead rate unless the carrier does so designate such position. The claim of the employes in this instance that Mr. Masur be returned to position of lead mechanic is not supported by the contract, as the carrier has the right to create or abolish such positions at its discretion and the payment of 5¢ additional per hour to a mechanic is not required unless and until the condition specified in Rule 34 exists and the carrier does designate the employe as a lead workman.

With respect to the employes' claim that Mr. Masur should be reimbursed, presumably for his living expenses at Armourdale, Kansas, since January 8, 1936. The several rules in the current agreement with the machinists' organization with respect to payment of actual expenses for employes while away from their home point, are not applicable. He was not on a temporary vacancy as covered by Rule 11; he was not regularly assigned to road work and paid the monthly rate of pay as provided for in Rule 14, nor was he in emergency road service as defined in Rule 9. When Mr. Masur's position of lead mechanic at Eldon, Missouri, was abolished on January 4, 1936, he was permitted, under the provisions of Rule 23, to place himself as a machinist at Armourdale and that, therefore, became his home point.

The claim, submitted by the organization for expenses for Mr. Masur while filling the regular position at Armourdale, is not supported in any way by the contract and should be declined.

In the absence of a requirement that the carrier maintain lead workmen and pay them 5¢ per hour excess, and because of the fact that Mr. Masur has worked continuously at Armourdale, Kansas, as a machinist at \$1¢ per hour and his earnings at that point have been as great as they would have been at Eldon, Missouri, on the same position and rate, Mr. Masur's claim has no real foundation and should be declined.

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.

United States Railroad Labor Board Decision No. 409, Docket No. 654, was cited by the employes, reading:

"While the Labor Board recognizes the right of the carrier to appoint employes of their own selection to important supervisory positions, the Board does not feel that it was the intent of the rules as incorporated in the national agreement to permit the carrier to displace employes at small outlying points by the exercise of this privilege without good and sufficient reason. * * *"

The rule and the case being similar, the Division finds their decision should apply to the instant case.

AWARD

John Masur shall be reinstated at Eldon, Missouri, with seniority rights unimpaired and paid for wage loss since January 4, 1936. This without prejudice to the right of carrier to select and appoint employes to supervisory positions under proper conditions.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: J. L. MINDLING
Secretary

Dated at Chicago, Illinois, this 18th day of December, 1936.