

Award No. 169

Docket No. 181

2-MP-MA-'37

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 2, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (MACHINISTS)**

MISSOURI PACIFIC RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: That Machinist Helper H. P. Clark be compensated in amount of time equal to 32 hours at rate 53¢ per hour, total \$17.09.

EMPLOYEES' STATEMENT OF FACTS: On January 17, 1937, Machinist H. B. Kirk was sent from Osawatomie, Kansas, to Council Grove, Kansas, to apply engine tank wheels to engine 5312. Machinist Helper H. P. Clark was helper entitled to call to accompany Kirk on trip; however, Clark was not called and a carman helper at Council Grove was used on job.

POSITION OF EMPLOYEES: Rule 45 of wage agreement:

"Rule 45. Sufficient helpers will be furnished to handle such work as required. When experienced helpers are on duty and available they will be used in preference to inexperienced men. Laborers may be used to fill temporary vacancies as helpers and when so used will be paid helpers' rate."

is applicable in this case and needs no interpretation. Rule 53 of wage agreement:

"Rule 53. Helpers' work shall consist of helping machinists and apprentices, operating power driven hack saws and cold cut off saws, drill presses, bolt threaders, wheel presses (on car, engine truck and tender truck wheels), nut tappers and facers, bolt pointing and centering machines, car brass boring machines, and twist drill grinders; machinery oiling, belt repairing, locomotive oiling and box packing; applying connecting and disconnecting all couplings between engine and tender, and all other work generally recognized as helpers' work."

defines duties of machinist helper.

We contend that experienced help was available to accompany machinist to Council Grove; and that in failure to call Machinist Helper Clark, management violated these rules. Employees' Exhibit A indicates that car helper was used. Employees' Exhibit B, letter signed by Mr. O. A. Garber, claims fur-loughed machinist helper was used. Check of records dating back to 1926 does not indicate machinist helper employed at Council Grove.

In view of the facts as set forth we are requesting that H. P. Clark, machinist helper, be compensated as set forth in claim.

CARRIER'S STATEMENT OF FACTS: Machinist H. B. Kirk was sent from Osawatomie shops at 8:45 A. M., January 17, to Council Grove, Kansas, a distance of 92.52 miles, arriving at 12:30 P. M., to renew tank wheel on engine 5312; worked on engine from 12:30 P. M., January 17, to 12:01 A. M., January 18, left Council Grove at 4:25 A. M., and arrived back at headquarter point, Osawatomie, 6:30 A. M., January 18, for which services he was properly compensated under rules (Rule 7) of our wage agreement with the shop employes. Division Foreman Pierce and a competent machinist helper formerly in our service as such at Council Grove and at the time this work was performed employed as a carman helper, assisted Machinist Kirk in handling this job; the helper furnished was paid for services he performed at the machinist helper's rate of pay.

POSITION OF CARRIER: In presenting this case to the carrier the employes contended that H. P. Clark, a machinist helper at the Osawatomie shops, should have accompanied Kirk from Osawatomie to Council Grove on this job, basing their contention on Rule 45 reading:

"Sufficient helpers will be furnished to handle such work as required. When experienced helpers are on duty and available they will be used in preference to inexperienced men. Laborers may be used to fill temporary vacancies as helpers and when so used will be paid helpers' rate."

and Rule 53 reading:

"Helpers' work shall consist of helping machinists and apprentices, operating power driven hack saws and cold cut off saws, drill presses, bolt threaders, wheel presses (on car, engine truck and tender truck wheels), nut tappers and facers, bolt pointing and centering machines, car brass boring machines, and twist drill grinders; machinery oiling, belt repairing, locomotive oiling and box packing; applying, connecting and disconnecting all couplings between engine and tender, and all other work generally recognized as helpers' work.

Tender truck work at the following designated back shops will be performed by carmen—St. Louis, Kansas City, Sedalia, Hoisington and Little Rock; at other points by machinist helpers."

There were experienced machinist helpers available at Council Grove to assist the foreman and mechanic in handling the repairs on this engine, hence the carrier did not violate Rule 45 of wage agreement with the employes as alleged.

We do not consider that Rule 53 has any bearing whatsoever on the question at issue, as there is no question but what the work performed by this helper at Council Grove was helping a machinist, for which he was properly compensated.

There is no rule in our wage agreement nor practice under any rule that would sustain the employes' contention that a helper should have accompanied this machinist from Osawatomie to Council Grove when experienced helpers were available at Council Grove.

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.

The man that helped Machinist Kirk at Council Grove was a furloughed machinist helper at Council Grove, with seniority rights to return to his helper classification when opportunity occurred.

This man was used as a machinist helper and paid his proper machinist helper's rate of pay.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 21st day of July, 1937.