Award No. 273
Docket No. 248
2-NYC-MA-'38

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee John A. Lapp when award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION No. 103, RAILWAY EMPLOYES' DEPARTMENT, A. F. of L. (Machinists)

THE NEW YORK CENTRAL RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES: That the assignment of machinists' regular apprentices at Harmon, Selkirk, Rensselaer, Utica, DeWitt and East Buffalo enginehouses is a violation of Rules 40, 41, 42 and 69 of the shop crafts' agreement.

JOINT STATEMENT OF FACTS: Machinists' regular apprentices were assigned to enginehouses, as follows:

Location	Name	Date Assigned	Age
Harmon, N. Y.	A. J. Westfall	5- 6-37	19
Selkirk, N. Y.	D. H. Brodhead	5- 5-37	18
Rensselaer, N. Y.	R. P. Johnson	5- 1-37	21
Utica, N. Y.	L. L. Riley	4-29-37	19
DeWitt, N. Y.	W. Brown	6- 1-37	19
East Buffalo, N. Y.	J. E. Hannah	4-28-37	20

POSITION OF EMPLOYES: That the assigning of machinists' regular apprentices to serve their apprenticeship in enginehouses is a violation of machinists' special Rule 69.

When the National Agreement was abrogated and the system federations were ordered to negotiate separate agreements with their respective railroads, the New York Central System Federation No. 103 began negotiations with the New York Central management in May, 1921, at Cleveland, Ohio. Mr. D. R. MacBain, general manager, Lines West, and Mr. Thos. A. Rodgers, president of System Federation No. 103, acting as chairmen of their respective groups.

During the negotiations, management submitted propositions on the various general and special craft rules, amongst them the general Rules 40, 41 and 42. The propositions not being acceptable to the employes' committee, after exchange of counter propositions and discussion, portions of Rules 40 and 42 were tentatively accepted. Both parties recognizing that these rules would interlock with the various crafts' special rules, final determination was left until craft special rules were discussed and decided. Rule 41, being the indenture rule, was non-controversial.

irrelevant. While there is no such thing in any of the enginehouses designated as "erecting floors," nevertheless, a large amount of work listed under this heading is done at enginehouses and is substantially the same as that done on the erecting floors of general repair shops.

With reference to employes' Exhibits A and B, those exhibits evidently were extracted from the February 1, 1928, schedule of work for apprentices, which at that time comprised thirty-nine sheets. These sheets were prepared for shops and enginehouses where apprentices were being trained at that time. They did not, however, place any limitations on the training of apprentices at other points, nor restrict the assigning of either regular or helper apprentices at any points. These exhibits are in no sense interpretations of the rules of the agreement and have no bearing on the present dispute.

Lacking any specific provision prescribing the serving of apprenticeships at the larger enginehouses, manifestly the essentialities of the situation have been fully met if adequate experience is available for properly training apprentices at such points. There is no dispute between us regarding the availability of adequate experience at these points, and consequently, the action of the management in assigning regular apprentices at the enginehouses in question, five of whom are sons of employes, was in strict conformity with the rules and the violation claimed by the employes' representatives is not substantiated.

OPINION OF THE DIVISION: The claim in this case is that the assignment of machinists' regular apprentices for training at enginehouses at certain points is a violation of Rules 40, 41, 42 and 69 of the shop crafts agreement. The determination of the claim depends upon the meaning of the words found in the agreement.

The contention is that regular apprentices cannot be trained at larger enginehouses. The answer of the carrier is that such apprentices may be trained at larger enginehouses if adequate facilities are available. The practice in the past has been to train regular apprentices in shops and helper apprentices in enginehouses. The training of both types of apprentices comes under the same rules. The parties agree that in any event there must be adequate facilities.

Rule 69 provides that: "machinists' apprentices can be started at the larger enginehouses where varied experience is available and, when started at the shops, may be assigned to the drawing room, to work at enginehouses, or on special work for not over four (4) months."

Rule 41 states: "Apprentices may be started at or assigned to enginehouses or other outside points during their apprenticeship." Both types of apprenticeship are included under the terms of these two rules.

Rules 40 and 42 have no application to the present case. Under the terms of Rules 41 and 69, helper apprentices have been assigned to the enginehouses for training while regular apprentices have, before this case arose, been assigned to the shops. Obviously, the terms are not restrictive of training in enginehouses, since helper apprentices who are trained in enginehouses come under these rules, the same as regular apprentices.

The question revolves around the use of the words "started at the larger enginehouses" in Rule 69, and the words "started at or assigned to enginehouses" in Rule 41. An examination of the use of this word (started) in craft agreements indicates that the word is not used to mean merely to begin, but implies continuance if adequate facilities are available. If the more limited interpretation is given to the word, then neither helper apprentices nor regular apprentices could be trained in enginehouses. The limitation

"to the larger enginehouses" strengthens this view, for it is apparent that the parties desired to eliminate enginehouses where adequate facilities were not available.

The employes contend that the practice has been followed for seventeen years and ought to be accepted as settled. There is weight in this contention, but it is not conclusive against the meaning of the rules in question. The fact that the carrier did not use its rights under the agreement does not destroy those rights.

If adequate facilities for training regular apprentices are available in a larger enginehouse, then the rules permit the serving of such apprenticeship in such enginehouses. If any necessary facilities are not available in an enginehouse, it is obvious that the entire apprenticeship could not be served in such an enginehouse.

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.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 10th day of October, 1938.