Award No. 311
Docket No. 311
2-IC-FO-'39

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. 99, RAILWAY EMPLOYES' DEPARTMENT, A. F. OF L. (FIREMEN AND OILERS)

ILLINOIS CENTRAL SYSTEM

DISPUTE: CLAIM OF EMPLOYES: That Rule 42 was violated on date of December 9, 1937; and that the wage reductions of five and one-quarter cents (5¼¢) per hour be restored to Henry Carter and James Quiette and/or such employes who may have taken their places, at Government Yard, New Orleans, Louisiana.

EMPLOYES' STATEMENT OF FACTS: On date of December 9, 1937, the wage rates of Henry Carter and James Quiette were reduced by the carrier, without conference with the representatives of the employes for this purpose. The incumbents involved were employed at Government Yard, New Orleans, Louisiana, under the scope of the firemen and oilers' agreement under the classification of alemite men, in compliance with the provisions of Exhibit A, which is a letter to Mr. J. W. Bass, general chairman of the machinists, on the date of writing and has been accepted as an agreement by System Federation No. 99.

Rule 42 reads:

> "The present rates of pay of employes covered by this agreement shall remain in effect, until changed by future conference between representatives of the railroad and employes involved."

The work performed by Henry Carter subsequent to the wage reduction is the same, insofar as the work covered by the firemen and oilers' schedule is involved, and consists of:

(Before 12/9/37.)	(After 12/9/37.)
Supplying locomotives	Supplying locomotives
Filling rod cups	Filling rod cups
Filling lubricators	Filling lubricators
Alemiting locomotives	

The work performed by James Quiette subsequent to the wage reduction is basically the same insofar as the work covered by the firemen and oilers' schedule is involved and consists of:

(Before 12/9/37)	(After 12/9/37)
Alemiting passenger engines	Alemiting locomotive bells
Filling rod cups on yd. engines	Filling rod cups on locomotives
	Filling lubricators
	Oiling air compressors and reverse gear
	Filling flange oilers
	Cleaning up roundhouse

(full time) are paid 79¼¢ per hour, and engine cleaners in the South, 33¢ per hour. To argue that the latter should receive the same rate as the former is false logic as obviously the responsibility involved and training and skill required in the former position justifies the higher rate. This line of reasoning is applicable to the instant case.

Were the employes' contention sustained, it would mean that a locomotive crane operator disturbed could exercise his seniority to displace a lower rated employe, and yet retain the higher rate for performing a lower-rated class of work. Thus, he might be performing engine cleaner's work at 79¼¢ alongside another engine cleaner receiving 33¢. The negotiators of the schedule had no such intent when they wrote the rule and to now place an interpretation of this kind upon the rule would, in effect, write a new rule into the agreement. This is not permissible and it must therefore follow that the claim be declined.

The procedure followed by the carrier in this case violated no rule in the agreement, and was arrived at with mutual knowledge and approval of local officer and local chairman. The claim is in effect a request to have the rate of pay for two individuals increased 5¼¢ per hour to the discrimination against other individuals performing the same class of work. Carrier respectfully points out that this is not a grievance, but a request to increase rates of pay contrary to the provisions of the existing agreement. Therefore, your Board is without jurisdiction in the case.

The carrier's summarized position is:

1. The evidence shows that claimants are properly compensated for the kind or class of work they perform.

2. No violation of any rule has occurred.

3. The requirements of the agreement have been complied with in letter and in spirit.

4. The changes described were made with full knowledge and approval of those concerned.

5. The claim is one over which this Board has no authority.

The carrier requests that the claim be denied.

OPINION OF DIVISION: The dispute in this case arises over the interpretation of Rule 42 of the current agreement, which reads:

> "Rule 42. The present rates of pay of employes covered by this agreement shall remain in effect, until changed by future conference between representatives of the railroad and employes involved."

Two employes who had been engaged at Government Yard, New Orleans, Louisiana, at 38¼¢ an hour, had their work readjusted by the carrier and, thereafter, received 33¢ an hour. They claim a violation of Rule 42 on the ground that their wages had been changed, without conferences between the representatives of the railroad and the employes. They insist their work remained fundamentally the same after the change in their pay as it was before.

The carrier asserts that the work was not the same afterwards as before and points out that the purpose of the change was to take away alemiting work and to give it to specified employes and that after the date of change in pay the claimants did no alemiting work. The carrier further insists that the term "rates of pay of employes" refers to general rates of pay and not to specific rates of individual employes. The carrier insists that work could be readjusted and reassigned and that Rule 42 was not violated so long as men received the rate of pay of the class to which they were assigned.

The evidence seems clear enough to prove that the work of the two men involved in this case was reorganized and that after December 9 they were not called upon to do any alemiting work. Their pay was reduced at that time from 38¼¢ an hour to 33¢ an hour. This change may properly be attributed to a readjustment of the work of the two men. That such readjustments are permissible under Rule 42, there can be no doubt. That rule was not intended to peg the rate of pay of each individual employe. The rule applies to classes and, while the demarcation between the classes is not always as definite as one could wish, it does not appear to have been an unreasonable readjustment to place the alemiting work in the hands of one or two men and to reclassify the other men who had been doing some alemiting work. It appears that when reclassified, these men took the pay of the workers doing similar work. Under the circumstances, Rule 42 was not violated.

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 16th day of February, 1939.