

**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. 2, RAILWAY EMPLOYES'
DEPARTMENT, A. F. OF L. (BOILERMAKERS)
MISSOURI PACIFIC RAILROAD COMPANY**

DISPUTE: CLAIM OF EMPLOYES: That Class B Boilermakers James Paul, O. Y. Thomas, J. R. Moore, and R. R. Holman be compensated for all time lost from July 26, 1937, to the date they were restored to work.

EMPLOYES' STATEMENT OF FACTS: On July 21, 1937, there was a bulletin posted at Sedalia, Mo., reducing the force seven class B boiler-makers, effective July 26, 1937. The local committee protested the reduction at the time on the basis that it was a violation of Rule 13, paragraph (f), which definitely states that:

"In reduction of forces these classes of employes will be laid off in the same ratio to journeymen mechanics."

POSITION OF EMPLOYES: On October 15, 1934, there was employed at Sedalia, Mo., thirty-five (35) boilermakers and thirty-one (31) advanced helpers, the basis used to determine the ratio of advanced helpers to boiler-makers, which was one to one. This ratio could be maintained, but never was to be increased, meaning more boilermakers could be hired, but the number of advanced helpers could not be increased.

On July 1, 1936, the advanced helpers were classified as class B mechanics.

In reducing this class of employes at Sedalia, Mo., in order to comply with Rule 13 (f), it would have been necessary to cut the force of class A boiler-makers to the original thirty-five (35) men, as this class of employes had been considerably increased since October 15, 1934; then the men should have been laid off one for one to comply with the ratio requirements and Rule 13 (f). This was not done; instead a reduction of seven (7) class B boiler-makers was made without any attempt being made to maintain a ratio of one to one.

In a meeting in Assistant General Manager C. A. Clements' office, held on December 21, 1937, this case was discussed before all the general chairmen, and Mr. Clements agreed the reduction in force was contrary to Rule 13 (f) and was a violation (see Exhibit A), and instructed Mr. Garber to get in touch with General Chairman O. E. Clark at the Missouri Pacific Hospital, and arrange a conference to arrive at some settlement of the case. After waiting a considerable length of time and not hearing from them, General Chairman Clark wrote both Mr. Garber and Mr. Clements. General Chairman Clark also arranged conference with Mr. McAmis on two different occasions, but could not arrive at any settlement of the case.

4. B boilermaker formerly removed and applied all flexible stay-bolt caps. This work has now been given to class A boilermakers, as this rule has been construed to mean that flexible staybolt caps removed on fire box work was not for the purpose of inspection.

5. B boilermaker formerly removed and repaired all front end draft appliances in their entirety. On account of ruling as above mentioned on cutting torch, class A boilermaker must go to the front end with the B boilermaker, to operate the cutting torch. Also, a boilermaker has been assigned to make front end draft appliances.

6. On engines coming in for repairs front end ring was formerly removed by class B boilermakers and is now being removed by class A boilermakers. Class A boilermakers apply it and always have.

7. Ash pans and rigging was formerly made new, removed and applied by B boilermakers. A boilermakers now make all new ash pans, also apply them in connection with B boilermaker on account of B boilermaker not permitted to use cutting torch. Recent ruling provides that the B boilermakers be eliminated in the application of ash pans and this work will be done by A boilermakers.

8. B boilermakers formerly applied all steel cabs, all steel running boards and steps. Necessary now to have an A boilermaker operate cutting torch in removing these running boards and to drive rivets; therefore, the A boilermaker is used to the best advantage in doing this work, as provided for in rulings. Recent ruling provides that the B boilermaker be eliminated entirely from this work.

9. All fire box sheets on engines coming in for repairs were cut out and removed by B boilermakers. This work is now all being done by class A boilermakers on account of class B boilermaker not being permitted to use cutting torch.

10. Class B boilermakers formerly drove all staybolts, radial and otherwise. Recent ruling provides that class A boilermaker will apply and drive the radial staybolt in its entirety, including the cap.

This adjustment in force made on July 27, 1937, was not complained of by the employes until some four months later, or on November 22, 1937. If the shop superintendent had been apprised by the employes during the five-day period this bulletin was posted, viz., from July 21 to July 26, 1937, inclusive, that they felt the action contemplated by this was violating the spirit of Rule 13, all that would have been necessary to literally comply with the rule would have been to lay off class A mechanics to meet the ratio of one class B to class A mechanic, and on the following date restore to service such of the class A mechanics as were required, the rule being optional with respect to returning class B men to service.

This claim is nothing else but an effort on the part of the employes to take advantage of a mere technicality and should properly be denied by your Honorable Board.

OPINION OF DIVISION: This case arises out of the use of two classes of mechanics, Class A mechanics and Class B mechanics. The two classifications came into existence as an invention of the carrier and the use of Class B mechanics has been resisted by the employes who have insisted that there should be one class of mechanics and one class of helpers.

When the contract on this railroad was taken over by the Unions affiliated with the American Federation of Labor, the problem of what to do with advanced helpers, as they were then called, became a matter of controversy. Desiring to move toward their elimination, the contract changed the classification from advanced helpers to Class B mechanics. As advanced helpers they had previously had seniority with other helpers. As Class B mechanics they

became a separate seniority group. Fearing that Class B mechanics, under the circumstances, might be favored by the carrier, the rules provided that in the event of a lay off the Class B mechanics would be laid off in the same ratio as Class A mechanics. That is, if there were thirty Class A mechanics and ten Class B mechanics, then if three Class A mechanics were laid off, one Class B mechanic must be laid off. This was a mandatory requirement.

In furtherance of the purpose gradually to eliminate Class B mechanics, it was provided that the carrier, in restoration of forces, may return Class B mechanics in the same ratio as A mechanics. The carrier is not required to do so. The whole purpose of the rule was to keep the Class B mechanics from displacing Class A men and, gradually, to establish one class only. Nothing is said about the A men being laid off in proportion to the Class B men. Whether it was the intention of the rule to permit the reduction of Class B men, without a corresponding reduction of A men, is not entirely clear.

The purpose is understood, but the employees insist that the purpose must be accomplished in a different way. They insist that Class A men must be reduced in the same ratio to Class B men, but they point out that immediately the Class A men could be called back without reference to the ratio of Class B men. Thus, in a given case, if it was desired to lay off three B men, and the ratio between B men and A men was one to three, then nine A men would have to be laid off, but the nine A men could be immediately called back and none of the B men.

The claim in this case is for compensation for time lost, while the claimants were furloughed in alleged violation of the rule. Such a claim must be predicated upon the right of the B mechanics to their jobs and not because someone else was not laid off at the same time. The carrier had a right to lay off the B men and, if they failed to lay off somebody else, and thereby violated a rule, the B men could not claim compensation. The B men had no assurance of their jobs for it would be possible for the employer to lay them off along with A men and then take back the A men without any of the B men.

The claim for compensation must be denied on the ground that even if the rules were violated Class B men could not be assured that they would have been retained if the rules had not been 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 employee or employees involved in this dispute are respectively carrier and employee 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.