

Award No. 375

Docket No. 348

2-SN-BK-'39

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 158, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (BLACKSMITHS)

SACRAMENTO NORTHERN RAILWAY

DISPUTE: CLAIM OF EMPLOYEES: That welder and welder helper engaged in welding or building up of frogs, switch points, cross overs, puzzle switches and low rail joints at terminal points and out on line of road, employed in the Maintenance of Way Department, shall be governed by the agreement between the System Federation No. 158, Railway Employees' Department, American Federation of Labor and the Sacramento Northern Railway.

JOINT STATEMENT OF FACTS: Carrier does not agree that the rates of pay, rules and working conditions set forth in its agreement with the System Federation No. 158, Railway Employees' Department, American Federation of Labor, covering employes who perform the work specified therein in the motive power and car department, shall apply to the welder and the welder helper who perform work in the maintenance of way department.

POSITION OF EMPLOYEES: That these employes are covered by Blacksmiths' Classification Rule No. 54 which reads as follows:

"Blacksmiths' work shall consist of welding, forging, heating, shaping, and bending of metal; tool dressing and tempering, spring making, tempering and repairing, potashing, case and bichloride hardening, flue welding under blacksmith's foreman; operating furnaces, bull-dozer, forging machines, drop-forging machines, bolt machines, and Bradley hammers; hammersmiths, drop-hammermen, trimmers, rolling mill operators; operating punches and shears doing shaping and forming in connection with blacksmiths' work; oxy-acetylene, thermit and electric welding on work generally recognized as blacksmiths' work; also all welding or building up of frogs, switch points, cross overs, puzzle switches and low rail joints out on line of road; and all work generally recognized as blacksmiths' work." (Underscoring, ours)

That the International Brotherhood of Blacksmiths, Drop Forgers and Helpers were the first and only organization that this welder and helper authorized to represent them.

On September 11, 1936, when Mr. R. S. Roberts signed the agreement of representation with Mr. H. A. Mitchell, for the Railway Employees' Department and the Sacramento Northern Railway, respectively, these men were

in handling such material that it is applied to shopmen, whereas track-welders, as are the two (2) employes involved, do no lifting of the material they work on and consequently neither deserves nor has any such differential.

On the Southern Pacific Company, a Class One carrier just referred to, the track welders are represented by the same organization and are included in the same agreement as all other maintenance of way department employes for the reason that they are employes of the maintenance of way department only. Likewise, on this carrier, track welders have been negotiated for by the same organization and have been included in the same agreement as all other maintenance of way department employes and for the same reason, namely, that they are employes of the maintenance of way department only, the same as they are on the Southern Pacific Company.

The two (2) employes involved in this dispute are **not blacksmiths** in our motive power and car department and never have been; they do no blacksmith's work in our motive power and car department and never have done any there; and they have no seniority in our motive power and car department, nor have they ever had any. On the contrary, these two (2) employes are a track welder and a track welder's helper, who do no work, nor have they ever done any, other than track welding in the maintenance of way department; and they have no seniority, nor have they ever had any, in other than the maintenance of way department.

It is the carrier's contention that the employes involved have been paid as provided in the agreement by which they are governed, and that this dispute is both out of order and unjustified.

We, therefore, ask that the claim be denied.

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 waived right of appearance at hearing thereon.

Classification of blacksmiths' work Rule 54, reads in part as follows:

"Blacksmiths' work shall consist of * * *; also all welding or building up of frogs, switch points, cross overs, puzzle switches and low rail joints out on line of road; * * *"

The language in Rule 54 as quoted above, very definitely gives to the blacksmiths the welding work described out on line of road.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 7th day of August, 1939.