

Award No. 427

Docket No. 453

2-T&P-BM-'40

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**SYSTEM FEDERATION No. 121, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (BOILERMAKERS)**

THE TEXAS AND PACIFIC RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES: That mechanics using any torch or tool in connection with autogenous welding processes, including cutting torch, should receive differential rate as provided for in Rule 21, paragraph (g) and Rule 54, paragraph (a).

EMPLOYEES' STATEMENT OF FACTS: Mechanics employed in boiler department do not now receive differential rate for use of oxyacetylene torches only when welding or fusing metal.

Blacksmiths now receive welders' differential rate for use of all oxyacetylene torches including Graf cutting torch.

Rule 21, paragraphs (f) and (g), of present agreement reads as follows:

"(f) In compliance with the special rules included in this agreement none but mechanics and their apprentices in their respective crafts shall operate oxyacetylene, thermit, or electric welders. Where oxyacetylene, thermit, electric or other welding processes are used, each craft shall perform the work which was generally recognized as work belonging to that craft prior to the introduction of such processes, except the use of cutting torch when engaged in wrecking service or in cutting up scrap. At points where there is not sufficient welding for a member of each craft at the point employed, a welder or welders of any craft employed may do the welding for all crafts.

(g) When performing the above work for four (4) hours or less in any one day, employes will be paid the welders' rate of pay on the hourly basis, with a minimum of one (1) hour; for more than four (4) hours in any one day, welders' rate of pay will apply for that day."

Rule 54, paragraph (a), of present agreement, captioned "Differentials," reads as follows:

"(a) Boiler inspectors, flangers and fitters-up shall be paid five cents (5¢) per hour, autogenous welders seven cents (7¢) per hour, and layers-out ten cents (10¢) per hour above the minimum rate paid boilermakers performing work as classified in Rule 46-a, at point employed."

In conclusion, would call attention to your Board's Awards 3 and 246, Missouri Pacific cases. We do not understand from these two cases that there was any contention on the part of the organization that the use of oxyacetylene cutting torch carried with it a differential, but, instead, as we would understand their contention, it was that such work belonged to class "A" mechanics under Rule 29 (a) and (b) of the Missouri Pacific agreement, which is the same as our 3 (f) and (g), and your Board ruled in both cases that the use of the oxyacetylene cutting torch was work belonging to class "A" mechanics, and, as previously stated, we are in accord with the committee on the Texas & Pacific that only class "A" mechanics and their apprentices will be required to use the cutting torch.

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.

This dispute involves a question as to whether oxyacetylene cutters come under the provisions of Rules 21 and 54.

Rule 21, paragraphs (f) and (g), reads:

"(a) In compliance with the special rules included in this agreement none but mechanics and their apprentices in their respective crafts shall operate oxy-acetylene, thermit, or electric welders. Where oxy-acetylene, thermit, electric or other welding processes are used, each craft shall perform the work which was generally recognized as work belonging to that craft prior to the introduction of such processes, except the use of the cutting torch when engaged in wrecking service or in cutting up scrap. At points where there is not sufficient welding for a member of each craft at the point employed, a welder or welders of any craft employed may do the welding for all crafts.

(g) When performing the above work for four (4) hours or less in any one day, employes will be paid the welders' rate of pay on the hourly basis, with a minimum of one (1) hour; for more than four (4) hours in any one day, welders' rate of pay will apply for that day."

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These rules include both the welding and cutting processes.

AWARD

Oxyacetylene cutters shall be paid in accordance with Rule 54 (a).

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 22nd day of January, 1940.