

Award No. 502

Docket No. 521

2-ACL-MA-'40

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 42, RAILWAY EMPLOYES'
DEPARTMENT, A. F. OF L. (MACHINISTS)**

ATLANTIC COAST LINE RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES: That Rule 104 of the agreement between the aforementioned parties is being violated by the carrier assigning shop laborers to perform machinist helpers' work at Florence, S. C., and until such violation is discontinued senior machinist helpers employed at Florence, S. C. should be compensated at punitive rate for time the work in question was performed by shop laborers.

EMPLOYES' STATEMENT OF FACTS: On the effective date of the existing wage agreement between the parties hereto, July 1, 1938, the filling of mechanical lubricators, cups on compound pressure pumps, stoker engines, oiling coal pushers, air reverse, lubrication of turbo injectors, exhaust injectors, etc., in addition to lubrication of locomotives by the alemite system, was unquestionably recognized by both parties as coming within the scope of the machinist helpers' schedule of work, the same then being performed by machinist helpers at Florence, S. C. and other points on the Atlantic Coast Line System.

The above stated work continued to be regularly performed by machinist helpers until December, 1938, when Master Mechanic W. R. Witherspoon, then recently transferred from High Springs, Florida, to Florence, S. C., discontinued machinist helpers with the exception of alemiting, and assigned shop laborers. During the employees' efforts to have this work properly restored to machinist helpers the master mechanic has, incidentally, extended the use of laborers to cover alemiting of locomotives with grease guns.

The claim of the employees thus precipitated has been denied adjustment up to and including the general superintendent motive power, Mr. F. S. Robbins, who on one occasion claimed no violation of the agreement and lastly contended that the carrier is exempt from responsibility for such violation in that the employees' claim was not initiated according to carrier's interpretation of Rule 19.

POSITION OF EMPLOYES: That all of the work enumerated in the employees' statement of facts is clearly defined and covered in Rule 104, reading:

"Machinists' Helpers

Helpers' work shall consist of helping machinists and apprentices; operating drill presses, plain drilling, bolt threaders not using facing, boring or turning head, or milling apparatus; operating nut tappers and facers, bolt pointing and centering machines; attending tool room;

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.

It is proper for representatives of the employees to take up and progress grievances or violations of the terms of the agreement.

The filling of grease cups, including so-called "alemite," regardless of method or tools used, is machinist helpers' work under the terms of the agreement.

"Machinery oilers" are included in classification of machinist helpers, under the terms of the agreement—Rule 104.

Filling lubricators is not machinist helpers' work under the terms of the agreement.

There is no justification for the claim for punitive rate for the senior machinist helper.

AWARD

The claim is sustained as per above findings. The time claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 1st day of August, 1940.

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

**INTERPRETATION NO. 1 TO AWARD NO. 502
DOCKET NO. 521**

NAME OF ORGANIZATION: Railway Employees' Department, A. F. of L.
(Machinists)

NAME OF CARRIER: Atlantic Coast Line Railroad Company

Upon application of the representative of the employees involved in the above award, that this Division interpret the same in the light of the dispute between the parties as to its meaning, as provided for in Sec. 3, First (m) of the Railway Labor Act, approved June 21, 1934, the following interpretation is made:

The filling of grease cups, regardless of kind or type of grease used, also regardless of the type or kind of tool used to perform the filling, is machinist helpers' work.

Filling lubricators was decided by the award as not being machinist helpers' work, therefore, that work may be assigned to others than machinist helpers.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division**

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 9th day of January, 1941.

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**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

**INTERPRETATION NO. 1 TO AWARD NO. 595
DOCKET NO. 570**

NAME OF ORGANIZATION: Railway Employees' Department, A. F. of L.
(Carmen)

NAME OF CARRIER: Portland Terminal Company

Upon application of the representative of the carrier involved in the above award, that this Division interpret the same in the light of the dispute between the parties as to its meaning, as provided for in Sec. 3, First (m) of the Railway Labor Act, approved June 21, 1934, the following interpretation is made:

Your request for an answer to each of the specific six questions outlined in your letter is inconsistent with the claim as originally presented to this Division and upon which Award No. 595 was rendered.

Circular No. 1 of the National Railroad Adjustment Board under the caption "Form of Submission—Statement of Claim" reads:

"Under this caption the petitioner or petitioners must clearly state the particular question upon which an award is desired."

Award No. 595 of the Second Division sustained the claim as presented, following the Finding that both RULE 2 and MEMORANDUM OF UNDERSTANDING dated August 2, 1937, are still in full force and effect.

The language contained in RULE 2 and the MEMORANDUM OF UNDERSTANDING is direct and specific; indicating that "The starting time of work and meal period and the duration of each shall be arranged by mutual understanding, consistent with the economical and efficient dispatch of work and the requirements of service, and meet the convenience of the employees as far as practicable." This language means neither party may arbitrarily decide the starting time of work as the rule definitely states that such "shall be arranged by mutual understanding." Certainly the phrase "mutual understanding" implies reciprocal relations; that is, due regard for the company's requirements as well as for the convenience of the employees, to the extent practicable.

The very fact that a MEMORANDUM OF UNDERSTANDING concerning the application of RULE 2 (a) was entered into on August 2, 1937, constitutes ample evidence of a proper conception of the requirements set out in this rule. In this MEMORANDUM OF UNDERSTANDING it was "FURTHER AGREED" that "further changes in hours of assignments may be made from time to time at these and other points within the jurisdiction covered by this agreement, by mutual understanding as specifically provided for in this rule, if and when it is necessary to meet the requirements of the service." It fol-

lows, therefore, that such changes in hours of assignment that may be made shall be arranged in the very same manner as the record shows the necessary changes were made on August 19, 1937.

It is very clear to the members of the Second Division that management and the employe representatives considered the application of RULE 2 (a) and mutually agreed to place an interpretation thereon by the very specific language used in the MEMORANDUM OF UNDERSTANDING of August 2, 1937.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 16th day of June, 1941.