

Award No. 565

Docket No. 580

2-B&M-FT-'41

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 18, RAILWAY EMPLOYES'
DEPARTMENT, A. F. OF L. (FEDERATED TRADES)**

BOSTON AND MAINE RAILROAD

DISPUTE: CLAIM OF EMPLOYES: Management is without right under the rules of the agreement of April 1, 1937, particularly Rule 26, to use helpers to perform mechanics' work. Employees request that order be issued to the carrier to discontinue the practice.

JOINT STATEMENT OF FACTS: There is an agreement effective April 1, 1937, between System Federation No. 18, Railway Employees' Department, A. F. of L., and the Boston and Maine Railroad. Rule 26 of that agreement reads:—

"Assignment of Work

Rule 26. None but Mechanics or Apprentices regularly employed as such shall do Mechanics' work as per special rules of each craft, except Foreman at points where no Mechanics are employed.

This rule does not prohibit Foremen in the exercise of their duties to perform work.

At some points and on some shifts there is not sufficient work to justify employing mechanics of each craft, and it becomes necessary to create combination positions.

When such combination positions are created, position will be posted for bid from men in each craft, work of which is to be performed, and will be awarded in accordance with Rule 13.

The man assigned will carry the seniority date he held originally on roster and his classification will not be changed.

Rate of pay on combination jobs will be the highest rate of any of the grades covered by the combination."

Rules 47, 59, 75, 87, 97 and 108 are the "Qualification" rules for the respective crafts. Rule 25 prescribes point seniority. Rule 23 covers transfer of furloughed employees.

Helpers have sometimes been used as mechanics since agreement was entered into April 1, 1937, as will be explained in some detail in the position of respective parties to the dispute.

POSITION OF EMPLOYES: The rules of the agreement between System Federation No. 18 and the Boston and Maine Railroad, effective April 1, 1937, clearly substantiate the position which is being taken by the employees. Rule 26, quoted in the Joint Statement of Facts, specifically states that none

This showed the management was agreeable to having the local committee or general chairman have voice in what helpers should be set up when no mechanics were available, which is what they asked for on March 10, 1939; but we also outlined how it should be done in a systematic way so there would be no question afterwards, in event of change in personnel either of local committee or local supervisor.

On May 14, 1939, secretary-treasurer of System Federation No. 18 replied to assistant general manager as follows:

May 14, 1939.

Mr. A. H. Slader,
Assistant General Manager,
Boston and Maine Railroad,
Boston, Mass.

Dear Sir:

The Executive Board has discussed the proposal contained in your letter of April 20 and subsequent tracer of May 10th.

The position of the Board remains unchanged and is as outlined in my letter to you under date of March 10, 1939, which was as follows:—

"This will advise that, in accordance with the provisions of the Agreement, no Helpers are to be set up except by Agreement with the Local Committee or the General Chairman of the Craft involved, and in no case are Helpers to be set up to Mechanics when Mechanics are available."

We will appreciate your issuing instructions to all concerned covering the above understanding.

Very truly yours,
William B. Merry.

Attention is called to fact that executive board were agreeable to setting up of helpers, provided it was agreed to by local committee or general chairman of craft involved, but then after management agreed to that principle they say "no helpers are to be advanced except in accordance with the provisions of the agreement of April 1, 1937," which we understand to mean qualification Rules 47, 59, 75, 87, 97 and 108.

When there are no furloughed employees at the point needed, no furloughed men at other points who wish to transfer under Rule 23, no applicants awaiting placement, the work must go on. Sometimes helpers are used.

The committee claim in such cases regular mechanics should be doubled over—that they should be considered available.

There is no rule that requires doubling regular men over to fill vacancies or new positions. If it is a requirement for one day it would be a requirement for every day until another mechanic is available. That would not be a good thing for the man or the service.

At the hearing we will furnish the Board several cases where at the request or with the approval of some general chairman a helper has been promoted to mechanic since April 1, 1937 and laborers and car cleaners have been promoted to helpers since April 1, 1937 at the request or with approval of some general chairman.

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.

There is no agreement in effect providing for "setting up" of helpers, i. e., promoting or advancing helpers to positions of mechanics either temporarily or permanently.

If such an agreement is made it must be made by the same representative authorities that negotiated the Schedule of Rules.

Mechanics may, of course, be employed as such under the provisions of the agreement but when so employed seniority as mechanics starts as per the provisions of the agreement.

AWARD

Claim of employees sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 14th day of February, 1941.