

Award No. 848

Docket No. 800

2-CRI&P-BM-'42

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 6, RAILWAY EMPLOYES'
DEPARTMENT, A. F. OF L. (BOILERMAKERS)**

**THE CHICAGO, ROCK ISLAND AND PACIFIC RAILWAY
COMPANY**

(Frank O. Lowden and Joseph B. Fleming, Trustees)

DISPUTE: CLAIM OF EMPLOYEES:

A. That the controlling agreement rules were violated by this carrier when on March 15, 1942, Boilermaker Helper J. H. Lesley, employed at Dalhart, Texas, was required to change shifts at the straight time rate of pay.

B. That Boilermaker Helper Lesley be compensated for eight (8) hours at the time and one-half rate or twelve (12) hours at the basic hourly rate of seventy (70) cents per hour.

EMPLOYEES' STATEMENT OF FACTS: This carrier, prior to March 15, 1942, was employing only two (2) shifts of boilermakers and helpers at Dalhart, Texas.

On March 15, 1942, business conditions were such on the division on which Dalhart, Texas, is located that it was considered expedient and necessary by management to increase those shifts to three, allowing them an "around the clock" running-repair force to handle the increase in business more efficiently.

Boilermaker Helper Lesley, prior to this increase in shifts, was working what was then the second shift, with a starting time at 8:00 P.M. and quitting time at 4:00 A.M.

The addition of this third shift made a rearrangement of forces and starting time necessary so as to properly sandwich in the second shift between the first and third, so that each succeeding shift would immediately follow the other to cover the full twenty-four (24) hour period.

The new second and third shifts so created were bulletined. Boilermaker Helper Lesley did not bid on these bulletined jobs for the simple reason this rearrangement of forces and shifts were not to his liking, with the result that he was forced to accept the third shift, starting at midnight and ending at 8 A.M., and for which he claimed the time and one-half rate, but which, as the employees' statement of claim indicates, was declined.

POSITION OF EMPLOYEES: That the rearrangement of forces at Dalhart, Texas, on March 15, 1942, was solely an act of this carrier and was executed for its benefit and not that of the employees involved.

Employees changed from one shift to another will be paid overtime rate for the first shift of each change. Employees working two shifts or more on a new shift (assignment) shall be considered transferred.

This rule will not apply to cases of employees exercising their seniority rights. (Emphasis ours.)

As Mr. Lesley, being junior boilermaker helper on the seniority roster at Dalhart, did, in preference to remaining out of service, secure the 12 M to 8. A. M. position on basis of his seniority rights, he actually exercised such rights and, that being so, he was governed by the second paragraph of Rule 7 and the claim should be declined.

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.

The claimant's assignment was changed by the carrier from a shift starting at 8 P. M. to a shift starting at 12 midnight. Provisions of Rule 7 support the employees' claim.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 19th day of October, 1942.