

Award No. 870

Docket No. 741

2-TC-CM-'42

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee H. B. Rudolph when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 68, RAILWAY EMPLOYES'
DEPARTMENT, A. F. OF L. (CARMEN)**

TENNESSEE CENTRAL RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYES: (a) The carrier violated Rules 4, 26, 96 and 104 of the agreement between the Tennessee Central Railway Company and their shop craft employes by assigning a machinist and machinist's helper to do work which should have been done by a carman and carman's helper, on the night of January 13, 1941, when the machinist and his helper made repairs to front end coupler of Engine 331, in the terminal limits of Nashville, Tennessee.

(b) J. B. Bonds, a carman, and John Hedgepath, carman helper, who are regularly assigned to this class of work, are entitled to pay for a four-hour call each, on account of the violation of these rules.

EMPLOYES' STATEMENT OF FACTS: On the night of January 13, 1941, the coupler was pulled from the front end of yard engine 331, while switching at a location on the belt line within the terminal limits of Nashville. Mr. Dave Welch, regularly assigned hourly paid machinist, who was also acting roundhouse foreman in the place of the regular salaried roundhouse foreman who was absent that night, and Mr. Joe Kirkpatrick, his machinist helper, were sent to the scene by automobile and made the necessary repairs. They left the roundhouse at 8:30 P. M. and returned at 11:00 P. M. Messrs. Bonds and Hedgepath entered claims to cover the work and their claims were declined by Mr. T. A. Saunders, master car builder.

POSITION OF EMPLOYES: After Mr. Saunders refused to pay their claims, Messrs. Bonds and Hedgepath turned their case over to the carmen's committee for further handling and on March 4, Mr. Harry Gambill, chairman of the carmen, wrote Mr. Saunders as follows relative to the case:

Nashville, Tennessee,
March 4, 1941.

Mr. T. A. Saunders,
Master Car Builder,
Nashville, Tennessee.

Dear Sir:

I have a grievance from J. B. Bonds, Carman, and John Hedgepath, Carman's helper, covering their claim of pay for work done by Dave

Rule No. 7. An employe regularly assigned to work at a shop, engine-house, repair track or inspection point, when called for emergency road work away from such shop, engine house, repair track or inspection point, will be paid from the time ordered to leave home station until his return for all time worked in accordance with the practice at home station and straight time rate for all time waiting or traveling.

This rule does not require the use of shop employes of any class for emergency road work away from the shop, enginehouse, etc., but merely states the basis of pay when called for such work.

Summary:

The use of the night roundhouse foreman, or the acting night roundhouse foreman, and a machinist helper to repair a front end engine coupler is not in violation of any of the rules of the agreement.

The use of a machinist and machinist helper to repair a front end engine coupler would not be improper in the circumstances of this case and would not be in violation of any of the rules of the agreement.

For the reasons stated, the carrier respectfully requests that the claim of the petitioner 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.

The type of work here involved is carmen's work, not only under the agreement, but has always been recognized by the carrier as carmen's work. However, the work was performed by an acting foreman. Rule 26 which relates to mechanics only doing mechanic's work, has the important exception, so far as this docket is concerned, that, "This rule shall not apply to foremen. The practice of foremen performing work will not be changed." We think it clear that this exception permitted acting foreman Dave Welch to perform the work here involved. We find no justification under the rules for using a machinist's helper.

AWARD

Claim of Carman J. B. Bonds, denied.

The available carman helper under Rule 8 should be compensated for a minimum call under Rule 4.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

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