

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 162, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (BOILERMAKERS)**

**SOUTHERN PACIFIC LINES IN TEXAS & LOUISIANA
(TEXAS AND NEW ORLEANS RAILROAD COMPANY)**

DISPUTE: CLAIM OF EMPLOYEES: 1. That under the controlling agreement and Rule 65 thereof, all work pertaining and incident to removing, applying and repairing brick and the mixing of fire clay in which they are laid in locomotive fire boxes, stationery fire boxes and shop furnaces is boiler-maker helpers' work, and not the work of shop laborers.

2. That in consideration of the aforesaid the carrier be ordered to:

(a) Classify as boiler-maker helpers such shop laborers as have been regularly assigned as of and continuously since March 1, 1943, to perform or to help effectuate brick work and accordingly pay them the applicable rate for all such service retroactive to March 1, 1943, with seniority status as of said date.

(b) Compensate such shop laborers as have been periodically assigned since March 1, 1943, to perform or to help effectuate brick work at the boiler-maker helpers' rate of pay, for all such service performed.

(c) Cease and desist from arbitrarily using laborers to perform or help effectuate brick work.

EMPLOYEES' STATEMENT OF FACTS: At Houston, Texas, shops, the carrier classifies shop laborers as brick men helpers. They are paid 50 cents per hour or 4 cents differential above the laborers' rate of pay.

These so-called brick men helpers are assigned to help effectuate brick work in shop furnaces and in fire boxes of locomotives and stationary boilers.

These brick men helpers (shop laborers) mix the fire clay in which the bricks are laid; they pass the bricks to the boiler-maker helpers and supply them with the fire clay in which the bricks are laid. After the bricks are removed from fire boxes or furnaces these laborers separate the usable bricks from the scrap bricks.

On December 13, 1943, the following laborers were used to work with boiler-maker helpers to effectuate brick work—G. C. Young, back shop, first trick; J. C. Hooper, roundhouse, first trick; and John Berg, roundhouse, second trick.

The carrier has declined to make any adjustment whatever, on the basis that these laborers performed laborers' work and are properly paid therefor.

CONCLUSION

The carrier has shown that the work of replacing, renewing and applying fire brick in fire linings in locomotive fire boxes in the Houston roundhouse and general shops is being performed by brickmen (boilermaker helpers) and that the work done by laborers is not actually brickmen's or boilermaker helpers' work, but on the contrary is common labor. The officers of the carrier have carefully supervised the performance of this work so as to definitely avoid having laborers perform any part of boilermaker helpers' work. The organization is attempting to extend its scope and by amplification to stretch the meaning and intent of Rule 65 to embrace common labor, contrary to rule and practice. The rules of the agreement have been carefully complied with.

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As the carrier has not seen or been furnished with a copy of the employes' ex parte submission, it is not in position to anticipate the contentions that will be made, and there will be no attempt made to answer such contentions at this time. Every effort has been made to set forth herein all relevant argumentative facts, including documentary evidence in exhibit form, but as it is not known what the organization will present, the carrier desires an opportunity to make such additional answer thereto as may be considered appropriate.

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Wherefore, premises considered, the carrier respectfully requests that the claim made in this case be in all things 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 were given due notice of hearing thereon.

The dispute involves the use of laborers in performing certain work in connection with brick work in fire boxes of oil burning locomotives. Rule 65 provides that brick work is boilermaker helpers' work.

The employes state that laborers mix the fire clay in which the bricks are laid; pass the bricks to the boilermaker helpers and supply them with the fire clay in which the bricks are laid.

The work enumerated therein is brick work covered by Rule 65 and should be performed by boilermaker helpers.

AWARD

Claim sustained in accordance with above findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 31st day of May, 1944.