

Award No. 1167

Docket No. 1085

2-GN-MA-'46

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Sidney St. F. Thaxter when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION No. 101, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (MACHINISTS)**

GREAT NORTHERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES: 1. That machinist helpers were damaged when regularly employed Laborers Elmer Kongelf and Louis Desautel were improperly assigned to perform machinist helpers' work from 4 P. M. to 11 P. M. on January 9 and 10, 1945, respectively.

2. That the carrier be accordingly ordered to additionally compensate Machinist Helpers:

- (a) Jacob Bintz from 4 P. M. to 11 P. M. on January 9, 1945, seven hours at the time and one-half rate, and
- (b) John A. Olson from 4 P. M. to 11 P. M. on January 10, 1945, seven hours at the time and one-half rate.

EMPLOYEES' STATEMENT OF FACTS: At Grand Forks, North Dakota, the carrier maintains a roundhouse at which point there are employed approximately thirty machinists and thirty-five machinist helpers who work in shifts from 7 A. M. to 3 P. M., 3 P. M. to 11 P. M. and 11 P. M. to 7 A. M. There is also employed at that point a considerable number of laborers who normally work these same hours but due to the present manpower shortage most of these laborers, including Elmer Kongelf and Louis Desautel, work an additional hour each day, making the normal quitting time for the laborers on the day shift 4 P. M. rather than 3 P. M.

On January 9, 1945, due to the absence of a machinist helper on the second shift between the hours of 3 P. M. and 11 P. M., it became necessary to supply the services of a machinist helper between those hours. Upon instructions from the local supervisor at Grand Forks, Laborer Kongelf was assigned to fill the vacancy between the hours of 4 P. M. (which was Kongelf's normal quitting time as a laborer) and 11 P. M.

On January 10, a similar occurrence took place and regularly assigned Laborer Louis Desautel was assigned to fill the vacancy between the hours of 4 P. M. (which was Desautel's normal quitting time as a laborer) and 11 P. M.

On January 9, the date on which the first vacancy occurred, Machinist Helper Jacob Bintz worked his regular shift from 7 A. M. to 3 P. M. and,

izations comprising System Federation No. 101, since on the one hand we find General Chairman Brittan, supported by what appears to be unquestionable evidence, claiming that Rule 12(b) of his agreement gives to the laborers under his jurisdiction the right to fill permanent and temporary vacancies as helpers, while Mr. White, the general chairman of the machinists, is contending for an interpretation of a rule in his agreement never heretofore requested or followed and which, if agreed to, will take away from the employes represented by the International Brotherhood of Firemen and Oilers rights accorded them by accepted and unquestioned interpretation of their Rule 12(b) over a long period of years.

During all the years in which Rule 33 of the mechanical crafts schedule, as well as its identical counterpart in previous schedules has been in effect, the interpretation of such rule on this carrier has never been in controversy, such interpretation being that the wording, "when experienced helpers are available, they will be used in preference to inexperienced men" meant that when there were furloughed men holding rights as helpers such men would be used in the order of their seniority, when available, rather than to use a laborer inexperienced in helpers' work.

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 question is settled that, in the absence of a rule authorizing the practice, laborers who are in a different classification from machinist helpers cannot be used to perform machinist helpers' work. Rule 33 of the current agreement has been construed to permit such practice when experienced helpers are not available. The rule reads as follows:

"Sufficient helpers will be furnished to handle such work as required. When experienced helpers are available, they will be used in preference to inexperienced men."

The only question before us is: were experienced helpers available? The record discloses that there were helpers available who could have been used to fill these positions. The use of laborers was therefore a breach of the rule.

AWARD

Claims sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 4th day of November, 1946.