Award No. 1181
Docket No. 1106
2-C&NW-FT-'47

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee George A. Cook when award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 12, RAILWAY EMPLOYES' DEPARTMENT, A. F. of L. (FEDERATED TRADES)

CHICAGO AND NORTH WESTERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYES: That the cancellation of the allowance of up to twelve (12) days off sick time in a twelve (12) month period to Employe-Mechanics-in-Charge, effective on and since April 20, 1944, was improper, and accordingly said employes are entitled to have this working condition restored to them.

EMPLOYES' STATEMENT OF FACTS: For many years the carrier has maintained working supervision at outlying points where no mechanics were employed and/or at such points where the employment of mechanics do not exceed four or five.

Between June 30, 1921, and June 1, 1939, the foreman at such point was permitted to do all classes of mechanical work where no mechanic was employed, and any mechanical work at such point where there were not to exceed four mechanics employed. In other words, the foreman and three mechanics at such point would do all classes of mechanical work.

These foremen were paid on the salary basis, and the functions at such points are substantiated by a copy of the agreement submitted and identified at Exhibit A.

Effective June 1, 1939, the title of these "Foremen" was changed to the title of "Mechanics-in-Charge". From this date to the present time the mechanic-in-charge at such point is permitted to do all classes of mechanical work where no mechanic is employed, and any mechanical work at such point or on a shift at such point where there are not to exceed four mechanics employed. In other words, four mechanics and the mechanic-in-charge are permitted to perform all of the mechanical work, so long as the mechanics employed at such point do not exceed five.

These mechanics-in-charge are paid on a monthly basis, and the functions at such points are affirmed by a copy of the agreement submitted, and identified as Exhibit B.

From 1921 to April 20, 1944, the foremen and mechanics-in-charge at such points were allowed pay for time off sick up to and including twelve (12) days in a twelve (12) month period, and this payment of time off sick

If at the time negotiations were held in regard to change in basis of compensation for mechanics-in-charge, the committee felt that mechanics-in-charge should be given special consideration or different treatment than is accorded all other classes of employes represented by System Federation No. 12 and that they should be compensated for time off duty account personal illness, the matter should have been handled at that time. However, no such request was then made. With the change in basis of compensation for mechanics-in-charge, bringing them within the full scope of compensatory rules applicable to all other classes of employes represented by System Federation No. 12, it was anticipated that in so far as the allowance of sick time compensation was concerned mechanics-in-charge would be subject to the same conditions in that regard as were such other classes; that is, they would not be compensated for time not available for service as the result of personal illness.

It is the further position of the carrier that positions of mechanic-in-charge now having been placed on the same plane as all other classes of employes represented by System Federation No. 12 as to additional compensation allowance for overtime, call and Sunday work, etc., there are no good reasons for giving this group of employes different treatment than that given all other classes of employes so represented; that in the circumstances involved the discontinuance of the granting of compensation to mechanics-in-charge for time lost account personal illness was not improper nor in violation of any contract or agreement with System Federation No. 12 as contended by the employes, and that there is no justification for their request that the granting of such allowances be restored.

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.

This working condition—payment for certain sick leave—is not found in the rules of agreement negotiated between the parties, therefore, it was not improper for the carrier to cancel it.

The Railway Labor Act outlines procedure to be followed in the handling of intended changes in agreements affecting rates of pay, rules or working conditions (see Sec. 6).

If in the judgment of the employes a new rule should be negotiated, the procedure outlined in the Railway Labor Act should be followed.

The claim of the employes in its present status cannot be decided by the Adjustment Board as it does not grow out of the interpretation or application of the agreement concerning rates of pay, rules or working conditions (see Sec. 3, First (i), Railway Labor Act).

AWARD

Case dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 13th day of May, 1947.