

Award No. 1224

Docket No. 1141

2-ACL-MA-'48

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. 42, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (MACHINISTS)**

ATLANTIC COAST LINE RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: That under the current agreement it was improper for Mr. F. L. Augst, machine shop foreman, to operate one side of the wheel lathe in the wheel shop on August 19, 1946, and that accordingly the carrier be ordered to additionally compensate second shift Machinist C. M. Weston on that date for the aforesaid service in the amount of eight hours at the time and one-half rate.

EMPLOYEES' STATEMENT OF FACTS: At Emerson shops, Rocky Mount, North Carolina, the force employed in the wheel shop as of August 19, 1946, included only two machinists and three machinist apprentices, working forty hours per week, effective from July 1, 1946, when the carrier acted to furlough a considerable number of employees in initiation of the forty-hour week provided in Rule 16 of the current working agreement.

On Friday, August 23, 1946, a bulletin restoring forty-eight hours per week in the wheel shop, effective 7:00 A. M. August 24, 1946, was posted over the signature of the master mechanic. A copy of same is submitted, marked Exhibit "A".

The force in the wheel shop was increased to include five machinists, only one machinist apprentice, and two machinist helpers under the same bulletin restoring forty-eight hours per week effective August 24, 1946, on the first shift, 7:00 A. M. to 3:30 P. M.

On August 30, 1946, another bulletin was posted creating a second shift in the wheel shop effective September 3, 1946, to include four machinists and one machinist helper. A copy of the bulletin is submitted, marked Exhibit "B".

The wheel shop is supervised by a regularly assigned foreman, namely, Mr. G. B. Maxwell, who was being relieved by Mr. W. W. Gray, shop engineer, on August 19, 1946. The operation of the wheel lathe is recognized by the parties in dispute as machinists' work under the collective controlling agreement effective November 11, 1940.

Machinist C. M. Weston, the claimant, is regularly employed in the enginehouse, 3:00 P. M. to 11:00 P. M., forty-eight hours per week.

not operate it without several days' close instruction on the part of the foreman or some other man who is competent in the operation of the machine."

The affidavits set out above show conclusively that Mr. Weston himself would have required considerable instruction if he had been assigned to the operation of the car wheel lathe. The carrier insists that its foreman had the unquestionable right to instruct Mr. Parrish, but even if this were not true, it is obvious from the affidavits submitted that Mr. Weston was not qualified to give the instruction, even if we had felt disposed to accede to the organization's demand. To demonstrate the absurdity of the claim, if we had assigned Mr. Weston to instruct Mr. Parrish, it would have been necessary for Mr. Augst to instruct Mr. Weston and that in turn would have resulted in a claim from some other machinist who was not employed to instruct Mr. Weston how to instruct Mr. Parrish. If this third machinist had required instruction the matter might have resulted in an unbreakable chain of claims.

The carrier respectfully submits that there can be no serious question of the right of its supervisory officers to supervise and instruct the employees who come directly under them. This is a simple case in which the foreman undertook to instruct an apprentice under his supervision. The performance of this service is specifically covered by Rule 27(c). There is no basis in fact or logic for the claim here made, and the carrier respectfully requests the Board to deny it.

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 work was done, according to the employees' contention, to such an extent that it should be classed as a foreman doing mechanics' work, not in the exercise of his duties as a foreman, rather than a foreman instructing an employee.

The carrier on the other hand contends that Foreman Augst did not operate one side of the machine in an effort to increase the production of the machine exclusively—that his efforts were made in the interest of the apprentice so that he would become efficient in the operation of the wheel lathe.

The affidavits filed by the two sides refute each other. The Division, therefore, must find that in this instance the evidence does not justify the claim of Machinist Weston on account of work done by Foreman Augst.

This finding, and the award to follow, does not give sanction to foremen performing mechanics' work to defeat the purpose and intent of the rules, viz., mechanics to perform mechanics' work.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 14th day of January, 1948.