

**Award No. 1307**

**Docket No. 1229**

**2-Wab.-FO-'49**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**SECOND DIVISION**

**The Second Division consisted of the regular members and in addition Referee Harold M. Gilden when award was rendered.**

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**PARTIES TO DISPUTE:**

**SYSTEM FEDERATION No. 13, RAILWAY EMPLOYES'  
DEPARTMENT, A. F. of L. (Firemen and Oilers)**

**WABASH RAILROAD COMPANY**

**DISPUTE: CLAIM OF EMPLOYES:** That under the current agreement the rate of pay of Steam Locomotive Crane Operator Earl M. Walker was improperly reduced from \$1.32 per hour to 97½¢ per hour on February 21, 24, 25 and 26, 1948, and that accordingly the carrier be ordered to additionally compensate this employe the difference between his rate of \$1.32 per hour and the rate of 97½¢ per hour, which he was paid on the aforesaid dates.

**EMPLOYES' STATEMENT OF FACTS:** Earl M. Walker, hereinafter referred to as the claimant, is regularly employed by the carrier in the car department at Decatur, Illinois, as a steam locomotive crane operator, six (6) days per week, exclusive of Sundays and holidays, and his seniority date as such is August 2, 1940.

The claimant's regular rate of pay is \$1.32 per hour, and his duties consist of operating the aforesaid and other cranes in the car department, in connection with loading scrap material salvaged from wrecked cars. However, effective after 3:30 P. M. on February 20, 1948, the carrier changed the claimant's status from steam locomotive crane operator to that of a laborer, with a corresponding reduction in pay until 7 A. M. February 27, 1948, when he was restored to his previous status and pay as a steam locomotive crane operator, but in the interim the carrier substituted for the claimant a carman helper to handle the loading of salvage scrap material, and this is affirmed by letter dated February 23, 1948, addressed to Mr. Eagleton, superintendent, by the undersigned, submitted as Exhibit A.

The agreement effective April 1, 1940, as subsequently amended, is controlling, and in accordance therewith this dispute has been handled, with the result that the highest designated carrier officer to whom such matters are subject to appeal has declined to adjust it, as reflected in letter addressed to the undersigned by Mr. Buck, dated April 23, 1948, submitted as Exhibit B.

**POSITION OF EMPLOYES:** It is submitted that the claimant is an employe subject to all of the terms of the aforesaid controlling collective bargaining agreement, and the provisions thereof, particularly applicable to this dispute, will be found in the Scope, Rule 1(a) and (b), Rule 7(f) and Rule 12(a), (b) and (g) 3. This claimant's status as a steam locomotive crane

February 21, 1948, and accordingly was paid the rate of pay for the class of work performed.

When consideration is given to the fact that Mr. Walker did exercise displacement rights (when his position as steam locomotive crane operator (except in wrecker service) was abolished) in accordance with the provisions of Rule 12, Paragraph (h), of the existing agreement, it is obvious that the claim set up by the petitioner in his ex parte statement of claim is without foundation under the rules of the agreement covering Firemen and Oilers, effective April 1, 1940; therefore, the contention of the committee should be dismissed.

**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 evidence does not support the contention of the employes. The steam locomotive crane regularly operated by Walker was taken out of service for repairs, and it was impossible to anticipate the length of time it would remain unusable. Under these circumstances Rule 7 (f) has no application.

#### AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

ATTEST: J. L. Mindling  
Secretary

Dated at Chicago, Illinois, this 7th day of March, 1949.