

Award No. 1583

Docket No. 1520

2-ACL-CM-'52

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee Carroll R. Daugherty when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 42, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (Carmen)**

ATLANTIC COAST LINE RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: 1. That under the controlling agreement it was improper to assign Roundhouse Laborer J. S. Boles to fire locomotive shop crane from 7:00 A. M. to 8:00 A. M. on the dates each of March 22, 23 and 26, 1951.

2. That accordingly the carrier be ordered to additionally compensate Carman Helper A. C. Randolph for the aforesaid time worked or for a total of three (3) hours at the time and one-half rate.

EMPLOYEES' STATEMENT OF FACTS: The carrier maintains a locomotive crane at its Westwood shops at Fitzgerald, Georgia and at the time this dispute arose this locomotive shop crane was used to coal engines, clean out clinker pits, load and unload shop material and other duties customarily performed by this crane at the shops.

Carman Helper A. C. Randolph, hereinafter referred to as the claimant, has a seniority date as such of September 7, 1922, and was regularly assigned on the first shift as the locomotive crane fireman from 8:00 A. M. to 4:30 P. M. with thirty (30) minutes for lunch, Monday through Friday, with rest days Saturday and Sunday.

The carrier assigned third shift Roundhouse Laborer J. S. Boles to fire this locomotive crane from 7:00 A. M. to 8:00 A. M. on the dates of March 22, 23 and 26, 1951, which assignment of this shop laborer was immediately protested on the first day of its occurrence. However, when the condition complained of was repeated on March 23 and 26 then a written claim for three hours' compensation at the time and one-half rate was filed with the appropriate local carrier officer on March 28, 1951 in behalf of the claimant, which has been properly handled with officials of the carrier up to and including the highest officer designated to handle such cases and all of whom have declined to adjust it.

The agreement effective November 11, 1940, with revisions and supplements as reprinted March, 1950, is controlling.

POSITION OF EMPLOYEES: It is submitted that when regularly assigned Roundhouse Laborer J. S. Boles was used to fire this shop loco-

underframes of coaches and locomotives, sand blasting, cleaning journals, Dodge and locomotive crane firemen (where used in Mechanical Department), and all other work generally recognized as helpers' work." (Underscoring supplied).

POSITION OF CARRIER: The organization, according to statement of its representative during his handling of the claim on the property, is contending that the firing up of this shop locomotive crane is covered by Rule 404—"Carmen Helpers". That rule unquestionably gives them the right to fire locomotive cranes while in service when used in mechanical department, but nowhere in the rule can be found any language that by inference or otherwise gives to that craft the firing-up of the crane.

It is a well known and accepted fact that the firing of steam locomotives when in service belongs to locomotive firemen covered by an agreement with the employes represented by the Brotherhood of Locomotive Firemen and Enginemen, but nowhere in their agreement are they given the exclusive right of firing up the locomotive prior to the time it is placed in service. They have never claimed such exclusive right. The same principle has existed on this carrier's property, insofar as firing-up of shop locomotive cranes, for many years. If it was intended that this work belonged exclusively to the carmen helpers' craft, it is strange that it was not spelled out in the agreement as is the right of that craft to fire it while in service when used in mechanical department.

Webster's dictionary defines "Fireman" as a noun meaning "a man who tends or feeds fires; a stoker", whereas it defines "fire up" as an adjective meaning "to light a fire, as in a furnace". Perusal of Rule 404 clearly indicates the use of the word "Firemen" as a noun and not as an adjective, which clearly indicates it was not intended that Rule 404 give to carmen helpers the exclusive right to firing up locomotive cranes when used in mechanical department.

Is there any reason why the exclusive right to fire up locomotive shop cranes should not have been spelled out if it had been intended that they have that right? Carrier does not think so and it is significant that Mr. Winters, general chairman, Brotherhood Railway Carmen of America, who was instrumental in progressing this claim to your Board, was at the time the present agreement was negotiated and still is general chairman of that craft. In addition, he was also President, System Federation No. 42, A. F. of L., at time agreement was negotiated. Certainly he had ample opportunity during negotiations to have the language in Rule 404 spell out what was intended and carrier believes he did. Apparently the organization now wants it to include a right heretofore excluded and is asking your Board to give them that right.

In its discussion of this claim on the property with the general chairman of the carmen's organization, carrier was informed the organization was not claiming the right to protect shop locomotive cranes on freezing winter nights when it is necessary to keep fires in them to prevent damage from freezing, but was claiming the exclusive right to fire them up preparatory to placing them in service.

Here again it is difficult to understand how the organization can justify its contention that it has exclusive right to fire up these cranes while conceding it does not have exclusive right of protecting them on freezing nights.

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.

On March 22 and 23, 1951, J. S. Boles, laborer on the third shift (12:00 midnight to 8:00 A.M.) at the carrier's Westwood Shops in Fitzgerald, Georgia, fired up a locomotive shop crane preparatory to its use in the car department in the first shift. On March 26, 1951, third shift laborer, S. P. Williams, in the same shops performed the same task.

In support of the instant claim the organization relies on Classification of Work Rule covering the work of carmen helpers, which states, among several things, that "Helpers' work shall be * * * Dodge and locomotive crane firemen (where used in Mechanical Department), * * *."

We think there is a reasonable and justifiable distinction between "firing" and "firing up." The latter appears to refer to building and preparing a fire and getting up a head of steam in a power plant such as the one involved in the instant case. "Firing," on the other hand, focuses on keeping the fire going and keeping the head of steam up while the power plant is in use.

There is no persuasive suggestion in the rule as drawn and there is no compelling evidence in the record before us that the parties intended to include as carmen helpers' duties the preparatory work of firing up, in addition to the regular work of firing a locomotive shop crane in the mechanical department. In the absence of such evidence we think the carrier was free to act as it did.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 20th day of November, 1952.