Award No. 1670

Docket No. 1584

2-IC-FO-'53

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Edward F. Carter when award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION No. 99, RAILWAY EMPLOYES' DEPARTMENT, A. F. of L. (Firemen & Oilers)

ILLINOIS CENTRAL RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES: 1. That under the current agreement the Carrier improperly assigned other than a locomotive crane operator to perform locomotive crane operator's work on March 12, 1952.

2. That accordingly the Carrier be ordered to compensate locomotive crane operator L. D. Taylor in the amount of two (2) hours' pay at the time and one-half rate.

EMPLOYES' STATEMENT OF FACTS: On March 12, 1952, W. G. Jones, employed as a carman on the first shift at Council Bluffs, Iowa, was assigned by the carrier to operate the locomotive crane in connection with removing cinder pit doors and stringers from the cinder pit which is confirmed by copies of statements submitted herewith and identified as Exhibits A. B, C, and D.

Relief Locomotive Crane Operator L. D. Taylor, hereinafter referred to as the claimant, who had worked on March 11 from 11:00 P. M. to 7:00 A. M. was available to perform the work if assigned or called.

The claim made on the property was for a call, or two hours at the time and one-half rate and while all the evidence leads to the conclusion that in excess of that amount of time was spent in the operation in dispute, the employes recognize that their claim falls short of that which is proper. However, due to the fact that a claim is not subject to be enlarged from that which was handled on the property it will be confined to the claim handled.

The agreement effective April 1, 1935 as subsequently amended is controlling.

It should also be noted that the classification of locomotive crane operators is qualified by the words "full time." This means that the classification of locomotive crane operator is not covered by the agreement unless and until there is necessity for a full-time assignment. Therefore, the use of an employe of another craft as a locomotive crane operator on one day only for an hour or for four and one-half hours is not a violation of the firemen and oilers' agreement.

Although the employes contend that Rule 1 of the agreement has been violated, they have not explained to the carrier any reason why the six hour limitation on the scope rule should not be effective in this case. A sustaining award in this case would strike from the agreement the last paragraph of Rule 1 and all of the Interpretation to Rule 1. It is well established that the Board has no power thus to amend an agreement.

Without prejudice to the foregoing contentions, it is the position of carrier that the work in question cannot by any stretch of the imagination be construed as work coming within the scope of the firemen and oilers' agreement. The lifting of covers and stringers from the cinder pit was work incidental to the repairing of the cinder pit by forces under a different agreement and therefore was not of a nature that could be construed as coming within the scope of the firemen and oilers' agreement.

There has been no violation of the agreement, and claim should be denied.

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 12, 1952, W. G. Jones was assigned as a carman on the first shift at Council Bluffs, Iowa. On that day, he was instructed to operate a locomotive crane in connection with removing cinder pit stringers and doors which B & B forces were replacing or repairing. It is the contention of the claimant, a locomotive crane operator, that the work should have been assigned to him.

It is the contention of the carrier that under the last paragraph of Rule 1, current agreement, and the interpretation thereof made a part of the agreement, it could properly assign any employe to do this work at this point. This paragraph provides:

> "When there is not sufficient work to justify the employment of a man under a classification or group of classifications, the work may be performed by any employe at this point. (By 'sufficient' is meant more than six (6) hours per shift)."

We think this rule provides a method for determining how many men are to be assigned under each classification or group of classifications. Clearly if there was not 6 hours work or more on any shift to be performed by a particular classification or group, no employes of such classification or group need be employed. Claimant was assigned as a locomotive crane operator, 11:00 P. M. to 7:00 A. M., and had worked such shift beginning on March 11, 1952. But there was no crane operator assigned to the following shift, there not being more than 6 hours work to be performed by a crane operator during that 8 hour period. Carrier asserts that under such circum-

stances, any employe can properly be assigned this work. We think this is true in the case of regularly assigned work. But this was not such. It was extra work which would ordinarily be performed under the overtime or call rules. The rule does not mean that less than 6 hours of overtime work may be performed by any employe. To so hold would, in effect, eliminate the call and overtime rules from the agreement. We have said many times that every provision in an agreement must be given meaning if it is possible to do so. To be consistent with this rule, we are obliged to say that the quoted portion of Rule 1 applies to regularly assigned work and that extra unassigned work remains subject to the overtime and call rules. The work here in question was performed in connection with the work of B & B forces and is clearly extra, unassigned work falling within the overtime or call rules.

The time consumed in performing the work is in dispute. In any event claimant is entitled to a call under Rule 6. Since the claim is for two hours at the time and one-half rate, it is properly sustainable to that extent irrespective of the time actually put in. An affirmative award is in order.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 30th day of April, 1953.