

Award No. 1775

Docket No. 1620

2-MP-MA-'54

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Adolph E. Wenke when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO 2, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (Machinists)**

MISSOURI PACIFIC RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: 1. That under the current agreement Machinist Helpers instead of Machinists have been improperly assigned to the duties of operating diesel lubricating oil testing machines since about September 10, 1951.

2. That, accordingly, the Carrier be ordered to assign Machinists to the aforesaid work and properly compensate Machinists who have been denied the right to perform such work. The Machinists involved and the amount of compensation due them to be subsequently determined.

EMPLOYEES' STATEMENT OF FACTS: At Little Rock, Arkansas, as well as the other diesel shop points, except at St. Louis, the Machinists were assigned by the carrier to test with a viskage the lubricating oil used in crank cases of diesel locomotives. However, upon the election made by the carrier to install lubricating oil testing machines at Little Rock as well as at other diesel shop points, machinist helpers were assigned to do this work and such transfer of work from the machinists to the machinist helpers occurred at Little Rock on or about September 10, 1951.

The agreement effective September 1, 1949 is controlling.

POSITION OF EMPLOYEES: It is submitted that these oil testing machines, referred to in the foregoing statement of facts, are rather an elaborate as well as a complicated piece of mechanism. It is necessary to remove samples of lubricating oil from the crank case of diesel engines and place it in the heating receptacle of the machine.

This receptacle is electrically heated and the sample is heated to what is termed the "flash point" at which time a lighted match or other form of flame is used to determine whether or not the lubricating oil has become sufficiently impregnated with fuel oil to make the lubricating oil unserviceable. Also moisture content of the lubricating oil may be determined in this machine.

carrier where lubricating oil is tested in the manner detailed elsewhere in this submission by other than chemists and technicians:

SHOP POINT	CLASS OR CRAFT ASSIGNED
Dupo, Illinois	Machinist Helper
North Little Rock, Arkansas	Machinist Helper
Kansas City, Missouri	Machinist, Helper or Apprentice
Atchison, Kansas	Machinist, Helper or Apprentice
Coffeyville, Kansas	Machinist, Helper or Apprentice
Osawatomie, Kansas	Machinist Helper
Wichita, Kansas	Machinist, Helper or Apprentice
Memphis, Tennessee	Machinist
Alexandria, Louisiana	Machinist
Omaha, Nebraska	Machinist, Helper or Apprentice

We believe it is conclusive from the facts set forth in this submission that the work of testing lubricating oil on this property has always been work recognized as that of and performed by chemists and technicians in the test department laboratories maintained by the carrier at the following points:

St. Louis, Missouri	Full Time Laboratory
Osawatomie, Kansas	Full Time Laboratory
Kansas City, Missouri	Part Time Laboratory
Little Rock, Arkansas	Part Time Laboratory

and in addition thereto, a full time laboratory on Missouri Pacific Lines in Texas and Louisiana located at Houston, Texas.

The increasing use of diesel-electric locomotives throughout the Missouri Pacific System Lines, as has been shown, made it necessary to augment the oil testing which had always been performed solely by chemists and technicians in test department laboratories at the above named points, and it was then that employes other than laboratory employes were instructed in the use of first the Viscage and then the Flash Point Tester which, incidentally, was developed in carrier's laboratory at Houston.

It must logically follow, therefore, that testing lubricating oil is not "engine inspecting", has not been contracted to any class or craft of employes, and hence may be performed by other than journeymen machinists. This fact is further supported by the practice at points where oil is tested at various points throughout the property by other than journeymen machinists without a complaint until the instant dispute arose at North Little Rock on or about September 10, 1951.

Accordingly, claim is without support under the provisions of the Shop Crafts' Agreement, contrary to practice throughout the property, and for the foregoing reasons 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.

The claim, made by the machinists of System Federation No. 2, is based on carrier's failure, since about September 10, 1951, to have machinists operate its oil testing machine, referred to as a Flash Point Tester, at North Little Rock, Arkansas. They contend carrier should have used machinists to operate it instead of machinist helpers.

The Flash Point Tester is a testing device or machine used by carrier to ascertain the serviceable character of the lubricating oil in use in the crankcase of its Diesel engines by determining the percentage of dilution and contamination therein caused by the presence of fuel oil, water, or other foreign substances.

The preamble of the parties' agreement provides:

"It is understood that this Agreement shall apply to those who perform the work specified in this agreement in the Maintenance of Equipment Department."

Rule 26 (a) provides, insofar as here material, that

"None but mechanics or apprentices regularly employed as such shall do mechanic's work as per special rules of each craft, * * *."

Rule 52 (a), insofar as it could have any application here, provides:

"Machinists' work, including regular and helper apprentices, shall consist of * * * engine inspecting; * * * the operation of all machines used in such work; * * *."

Thus the only question here is, was the work "engine inspecting" within the scope of machinists' work?

Before disposing of the foregoing issue on its merits we shall briefly consider carrier's contention that there has been such a change in the nature of the claim made on the property and that made here on appeal that we should dismiss the claim. It is true, as held in Award 1471 of this Division, that the organization may not start a claim on one basis and then, on appeal, change the nature thereof. The claim has been expanded from one on the property covering only North Little Rock, Arkansas, to one here covering carrier's entire system. However, the nature of the claim is the same. If allowed, the monetary claim would be limited to the extent as originally made but the principle involved would cover carrier's entire system.

The testing of lubricating oil in use in crankcase of engines used by this carrier had its inception about 1925. It was done in carrier's test laboratories, primarily at St. Louis, and performed by chemists and technicians, or under their supervision, as it required their special skills. Diesels came into use on this carrier's property in 1937 and with the increased use thereof the laboratory method was too slow. About 1946 carrier put into use a "visgag" which was an instrument whereby, through visual observation, the viscosity of the oil could be determined. This method proved unsatisfactory. In 1950 carrier devised the Flash Point Tester. It was put into use at North Little Rock about September 1, 1951, and is also in use at other points. Carrier trained machinist helpers to operate them and they have been assigned thereto. It should here be stated that the ability required to operate this machine is certainly not beyond the capabilities of a qualified machinist.

Insofar as the claim is based on the fact that carrier used machinists at some points to operate the "visgag" it can be stated there is no similarity between that test and the test made by the Flash Point Tester although the purpose of the two tests are concerned with and made for the

same purpose, that is, to ascertain if the lubricating oil tested is still in serviceable condition.

A careful analysis of Rule 52 (a) leads to the conclusion that "engine inspecting," as far as machinists are concerned, has no relationship to the testing of lubricating oil in use in Diesels in order to determine the serviceability thereof nor does the fact that carrier, at some points on its system, used machinists to operate the "visgage" bring it within the scope thereof. Having come to this conclusion, the claim should be denied.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 28th day of May, 1954.