

Award No. 2067

Docket No. 1940

2-GN-MA-'56

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 101, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L. (Machinists)**

GREAT NORTHERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYES: 1. That under the current agreement Machinists Fred Phelps, Abel Bergan, Albert Trump, Blaine Theroux, Charles Cornett, and Machinist Helpers Emmett W. Hill, L. C. Walls, Edward Peterson, Lester Allen, Emery Connor and Lewis Stubbs were improperly denied overtime compensation for changing shifts at Klamath Falls, Oregon, resulting from notices posted December 3, and December 21, 1953.

2. That accordingly the Carrier be ordered to additionally compensate the aforesaid Machinists and Machinist Helpers in the amount of four hours pay at the applicable straight time rate for each date they were forced to change shifts without time and one-half compensation.

EMPLOYES' STATEMENT OF FACTS: At Klamath Falls, Oregon, the Great Northern Railway Company, (hereinafter referred to as the carrier) employed machinists and machinist helpers. The carrier elected to reduce the force of machinists and machinist helpers effective December 6, 1953, and accomplished it by abolishing all positions and bulletining positions they desired to keep in effect which is supported by notices posted, dated December 3, 1953, and submitted herewith and identified as Exhibits A and B. The force when these notices were posted consisted of 12 machinists and 12 machinist helpers. After the jobs were bulletined the force consisted of 8 machinists and 10 machinist helpers. The carrier elected to further reduce the force of machinists helpers effective December 24, 1953, and accomplished it by notices dated December 21, 1953, which notices are submitted herewith and identified as Exhibits C and D. After December 24, 1953, the force at this point was 9 machinists and 7 machinist helpers.

No reduction in force list as required by the agreement was furnished to the local chairman.

As a result of the carrier's election to reduce the force the following machinists and machinist helpers were forced to change shifts because of the carrier's action:

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.

Rule 18(a) of the current agreement provides the following:

"Employes transferred from one shift to another at the direction of management will be paid overtime rate for the first shift worked on the shift to which transferred and if he works more than one shift on the shift to which transferred will be paid at overtime rate for the first shift worked after returning to his regular assignment. Such overtime payment shall not apply to transfers made as a result of the exercise of seniority."

The facts of record indicate that the carrier reduced the force at Klamath Falls, Oregon, on two occasions in December of 1953. The first reduction was made following a notice of December 3, — the second followed a notice of December 21st.

Claimants are not entitled to payment under the provisions of Rule 18(a). Said rule, by its very wording, leaves no doubt as to the fact that the rule does not cover situations where the force is reduced and the employes take new regular assignments. Rule 18(a) contemplates that the change made be of a temporary nature and not one of a permanent nature. The rule contemplates that an employe will be returned to his regular assignment. In the case before us the claimants could not be returned to their regular assignments because they received new regular assignments, their former regular assignments having been abolished due to a force reduction.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 21st day of February, 1956.

DISSENT OF LABOR MEMBERS TO AWARD NO. 2067

In Award No. 2067 the majority choose to ignore the evidence of record in this docket.

The current agreement makes no provision for the abolition of positions, so the notice posted by the carrier abolishing all positions was in violation of the terms of the agreement.

Rule 18 provides for the payment of overtime rate for change in shifts; the carrier did not compensate the claimants for said change in shifts per said rule.

This Board has held under similar circumstances as follows:

"Strub's placement on the second shift (3:00 P. M. to 11:00 P. M.) was attributable to his standing at the bottom of the seniority list for machinists helpers. His change of work schedule was not a matter of his choice, but was brought about to suit the carriers convenience. On this account, it cannot be said that Strub exercised his seniority to accomplish the transfer." (See: Award No. 1299)

Therefor this award is erroneous.

R. W. Blake
Charles E. Goodlin
T. E. Losey
Edward W. Wiesner
George Wright