

Award No. 2351
Docket No. 2248
2-B&A-BM-'56

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 18, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (Boilermakers)**

BANGOR & AROOSTOOK RAILROAD

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current agreement, Boilermaker Helper E. P. Arsenault was entitled to be recalled to service and paid four (4) days' pay at his applicable rate account of Machinists performing Boilermaker Helpers work.

2. That accordingly the Carrier be ordered to pay this Employee four (4) days' pay at his applicable rate.

EMPLOYEES' STATEMENT OF FACTS: Mr. E. P. Arsenault was a furloughed boilermaker helper holding seniority as such and subject to recall to service at anytime by the carrier.

On July 29, 1954 Locomotive No. 11, which had been damaged by accident, was in Derby Shops for repairs to the pilot, pilot coupler doors and pilot braces.

Boilermaker C. A. Grinnell was assigned to the above work and Machinist M. A. Wibberley was assigned to help Boilermaker Grinnell, which is confirmed by statement of Machinist Wibberley dated December 22, 1955.

At Derby Shops, Derby, Maine, the Bangor & Aroostook Railroad employed 2 boilermakers—C. Grinnell and A. Robichaud—from March 26, 1954 until November 29, 1954, at which time Boilermaker Robichaud died and Helper E. P. Arsenault was recalled to service to work with Boilermaker Grinnell. Derby Shops is the main back shop on the railroad.

The dispute was handled with carrier officials designated to handle such affairs who all declined to adjust the matter.

The agreement effective October 18, 1938, as subsequently amended, is controlling.

At one point in the operation, a boilermaker and a machinist worked together about two days straightening up the bent parts on the front end of the diesel including the doors which close over the couplers.

POSITION OF CARRIER: The portion of Rule 29 referred to above states that to meet service requirements, or where it is necessary for economical operation, the procedure used by the carrier in the case at issue can be followed.

Both of the provisions referred to above applied to this assignment and we did not have work of sufficient duration to necessitate calling Boilermaker Helper E. P. Arsenault. This fact is proved by the action of the employes in claiming two extra days for this helper beyond what was actually worked by the machinist because four days would have been required in accordance with the reduction of forces rule if we had posted the job and called back the boilermaker helper.

When the present rules were negotiated, this paragraph of Rule 29 was put in the agreement purposely to cover work of this nature because there were times and there still are, when we do not have sufficient work in some crafts at Derby to warrant calling back another man, but do have for a limited time extra work of sufficient importance to make it necessary under the provisions of this rule to work men from one craft to another within their ability for short periods of time.

Reference to the third paragraph of this rule will establish the fact that the rule does not stop with "... provide continuous occupation for men of all crafts", but continues, "or to meet service requirements, or where it is necessary for economical operation, . . ." (Emphasis added by carrier)

The two latter clauses beginning with "or" were placed in the rule by the railroad to take care of just such cases as the one under protest and we have been doing work in this manner for short periods of time ever since the agreement was signed in 1938.

To interpret this rule in a manner to substantiate the claim as presented, would violate its original intent and would impose a hardship on this railroad at all points, including Derby, where work to be performed is not sufficient to continuously employ more than one or two men in some of the crafts covered by the agreement, even though there is occasionally enough work for an additional man for a few hours, or even for a day or two.

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 waived right of appearance at hearing thereon.

On July 29, 1954, a locomotive was in Carrier's Derby Shops for repairs to the pilot, pilot coupler doors and pilot braces. Carrier used a boilermaker and a machinist to do the work. Claimant, a boilermaker helper, contends that he should have been used in place of the machinist.

Carrier relies upon Rule 29, current agreement, which provides in part:

"At points where the amount of work to be performed is not sufficient to provide continuous occupation for men of all crafts or to meet service requirements, or where it is necessary for economical operation, mechanics who are employed will be ex-

pected to do the work of various crafts insofar as their ability makes it possible."

The record shows that the shops at Derby constitute the main back shop point on this Carrier. Employes of all crafts are employed at this point. It is not a place contemplated as being within the quoted portion of Rule 29. If it did, the words "at points where," etc., would have no meaning. The rule contemplates that there are places where the rule does not apply. If the main shops at Derby were not contemplated as being excluded from its terms, we can conceive of no such location. If it was the intention of the rule that it should apply at all points, it would have been easy to have said so. But we are required to give meaning to all language employed in a rule. In doing so, we are required to say that it was not intended to apply to such a point as the main back shop where employes of all crafts are employed. The position of the organization is the correct one.

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 November, 1956.