

Award No. 2465

Docket No. 2131

2-SOU-CM-'57

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO 21, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L. (Carmen)**

SOUTHERN RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES:

1. That under the current Agreement with particular reference to the Mediation Board's Arbitration Award in Case C-409, Carman Helper J. F. Hankins, employed at Southern Railway System Lines Coster Shop, Knoxville, Tennessee, was improperly compensated for operating a drill press, second shift, November 1, 1954 and subsequent dates.

2. That accordingly the Carrier be ordered to additionally compensate Carman Helper J. F. Hankins nine cents per hour for each hour worked November 1, 1954, and subsequent dates, operating the drill press carrying a nine cent differential rate.

EMPLOYES' STATEMENT OF FACTS: There is a drill press in the carrier's Coster Shop, which pays the operator a nine cent differential rate above the regular established rate for carmen helpers. The differential rate was continued by, or after the Mediation Board's Arbitration Award in Case C-409, dated April 23, 1929. The carrier has always paid the operator the differential rate for operating this machine. To our knowledge, up until November 1, 1954, this machine had only been operated one shift per day, the first shift. November 1, 1954, the carrier assigned Carman Helper J. F. Hankins to operate this differential rated drill press on the second shift, but the carrier has refused to allow Carman Helper J. F. Hankins the differential rate which is paid the operator of the machine on the first shift, as provided for in Award in Case C-409, submitted herewith and identified as Exhibit A.

POSITION OF EMPLOYES: It is submitted that under the foregoing facts, the claimant is entitled to additional compensation of nine cents per hour for each hour worked operating the differential rated drill press in the carrier's Coster Shop, November 1, 1954, and subsequent dates, and the Honorable Members of this Division are requested to so find.

employees affected," and there is no provision contained within its four corners authorizing payment of the rate here claimed.

(d) The higher than agreement rate paid the operator of one drill press on the first shift applies solely to that job, position or assignment, and this fact has been recognized throughout the years by the brotherhood here before the Board, as well as by the other shop craft organizations.

(e) The memorandum of agreement executed by the parties on April 23, 1929 (carrier's Exhibit D) did nothing more than preserve the status quo insofar as the subject matter dealt with was concerned. Here, the brotherhood is not only doing one of the things it specifically agreed that it would not do in that agreement, i. e., contending that the then existing higher rates were fixtures, but, in addition, is contending that additional jobs, positions or assignments at higher than agreement rates should be established.

(f) The Board, not being vested with authority to establish rules or rates of pay, and having so recognized throughout the years, cannot establish the rule and rate here demanded.

Under the circumstances, claim being without any merit whatsoever and unsupported by the agreement in evidence, the Board cannot do other than make a denial award.

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 in this case constitutes a request to raise the hourly rate nine cents (9¢) for the operator of a drill press on the second shift at the carrier's Coster Shop in Knoxville, Tennessee. Furthermore, the claim seeks pay at that rate for all time worked on the drill press since November 1, 1954.

The organization contends that an arbitration award in 1929, between these same parties, established a differential between certain drill presses, and that the operator on the second shift is entitled to that differential. There are four (4) drill presses, and the award did provide that the higher rate being paid on the first shift on one drill press would continue. For many years three (3) of the drill presses on the first shift have had the same rate, and the other drill press a nine cents (9¢) per hour higher rate. The claimant is requesting the nine cents (9¢) higher rate paid on the one drill press on the first shift, now be paid for the operation of the same drill press on the second shift. We find no agreement to pay this higher rate on the second shift. It does appear that an inequity exists. The authority of this Board is limited to interpreting and applying the rules agreed upon by the parties. We know of no authority possessed by this Board to correct inequities. Such situations are frequently the subject for negotiations by the parties. We think that to approve or establish a higher rate on the second shift would be ordering a new rule or rate. We are not permitted to do this.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 5th day of June, 1957.