

Award No. 2613

Docket No. 2467

2-WP-BK-'57

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Curtis G. Shake when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 117, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Blacksmiths)**

THE WESTERN PACIFIC RAILROAD CO.

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current agreement, Blacksmiths R. L. Paule, C. C. Bennett and T. Bamford and Blacksmith Helpers W. R. Nicholas and D. J. Moffitt were unjustly dealt with when the Carrier arbitrarily reduced their established rates of pay on July 19, 1955.

2. That accordingly the Carrier be ordered to:

a) Return the aforesaid employees to their respective classification.

b) Additionally compensate each of the aforesaid employees in an amount equal, to the difference between their original differential rate and the minimum rate of pay from July 19, 1955 to the date adjustment is made.

EMPLOYEES' STATEMENT OF FACTS: At Sacramento, California, general shops the carriers' superintendent of shops elected to abolish the existing differential positions of R. L. Paule, Hammersmith; C. C. Bennett, tool fire blacksmith; 1 blacksmith—spring fire, unassigned; T. Bamford—4" forging machine blacksmith; W. R. Nicholas, heater helper; D. J. Moffitt, tool fore helper, hereinafter referred to as the claimants, on the 7:30 A.M. to 4:00 P.M. shift, effective with the close of the shift July 19, 1955 which is substantiated by copy of notice dated at Sacramento, July 15, 1955, submitted herewith and identified as Bulletin Nos. 189 and 195—Exhibits A and A-1.

On July 15, 1955, Bulletins Nos. 190, 191, 192, 193, 194 and 196 were posted by the carrier advertising the following positions, respectively; 1 blacksmith

performed, is changing the classification of the employes involved. This is an erroneous concept. The employes involved are classified as blacksmiths or blacksmith-helpers. Rule 77, Classification of Work (quoted in carrier's statement of facts), provides that many types of work (including differential work) are classified as blacksmiths' work. It is obvious that Rule 77 classifies different types of work; it does not establish classifications of employes corresponding to the work classifications. In other words, the employes are classified as blacksmiths or blacksmith-helpers and all work which belongs to them is classified in Rule 77; under Rule 88 they receive a differential rate if they perform any of the differential work provided for in the latter rule.

In the organization's view the differential rates of pay run to the employe; this again is an erroneous concept. A rate of pay runs to the position; it is a fundamental element of a position, one of the important factors which influence employes in bidding on a position. When an employe bids off or is displaced from one position, he does not carry the rate from his old position to his new one.

That the work on the two positions of furnace heater and hammersmith had decreased so substantially as to warrant their abolishment is obvious. That the employes who occupied those positions prior to their abolishment do not carry the rates of those positions to their new ones is equally obvious. Therefore, carrier reiterates that the instant claim is wholly without merit and requests that your Board deny it in its entirety.

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 the right of appearance at hearing thereon.

Effective July 19, 1955, the carrier abolished five blacksmith positions at its Sacramento Shops. Three of the occupants of these positions were assigned to other positions bearing differential rates equal to those which they had previously enjoyed. The other two, (Paule and Nicholas), were moved to positions bearing lower differential rates than those of their abolished positions.

The carrier asserts and the organization has not disproved that the abolishing of the five positions was reasonably justified by a decrease in the volume of available work.

The organization contends, however, that Rules 88 and 131 of the Agreement protected Paule and Nicholas to the extent of the differential rates that were previously paid them.

Rules 88 establishes differential rates for positions occupied by various groups of blacksmiths and their helpers and Rule 131 provides that, "All existing individual higher rates of pay and/or differential rates will be continued in effect." This statement is followed by the schedule of the minimum hourly rates.

We do not construe said rules as guaranteeing an employee whose position is abolished and who is assigned to a lower rated position a continuation of his former differential rate. Rule 131 simply means that duly established differential rates and rates of individual positions will prevail over the minimum hourly rates. Said rules deal with the rates of positions rather than the wages of employees.

AWARD

Claim denied.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION**

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 11th day of September, 1957.

DISSENT OF LABOR MEMBERS TO AWARD NO. 2613.

In Docket 2467, Award 2613, Rules 88 and 131 of the current agreement are cited as controlling.

Rule 88 establishes differential rates as described in the record and Rule 131 in clear and unambiguous terms provides in pertinent part "All existing individual higher rates of pay and/or differential rates will be continued in effect."

We have previously held that "When the language of a rule (131) is plain as to its meaning it is not subject to construction and will be enforced as made."

Therefore the award is erroneous. We dissent.

R. W. Blake

Charles E. Goodlin

Edward W. Wiesner

T. E. Losey

James B. Zink