

Award No. 3004
Docket No. 2833
2-CB&Q-EW-'58

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee D. Emmett Ferguson when the award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 95, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Electrical Workers)

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: That M. Overholt, furloughed crane operator, Denver Locomotive Shop (now closed) be allowed eight (8) hours' pay at the crane operator's rate of \$2.178 per hour for the days of April 2, 3, 4, 5, 6, 9, 10, and 11, 1956, and every day thereafter that said cranes are operated by any other than M. Overholt.

EMPLOYEES' STATEMENT OF FACTS: M. Overholt is a furloughed crane operator with seniority at Denver Shop. L. Slack and L. W. Laughlin hold no seniority as crane operators at Denver Shop.

POSITION OF EMPLOYEES: Management has claimed that due to the shops being closed employes no longer have rights to perform work of their class in the shop. Rule 28 which is quoted below for your ready reference, does not say a thing about temporary or permanent closing. It just says when work of a craft is required when shops are closed.

"Rule 28. Service When Shops Are Closed.

When shops are closed and it is necessary to make repairs to shop machinery or perform other urgent work, senior employes who ordinarily perform service of this character when shop is in operation, will be called to perform such work and will be paid straight time rate for straight time hours and overtime rate for overtime hours. Only such employes as are necessary to perform the required service will be called under this rule. In determining the employes who will be used under this rule, local officers and local committees will cooperate in the selection of senior employes who are capable of fulfilling service requirements. This rule will also apply when facilities or operations are closed due to breakdown in machinery, floods, fires and other conditions beyond the control of management."

By reading this rule, it is clear that the meaning is just what it says and needs no interpretation. It is clear that management required work of a crane operator as they used Mr. Slack and Mr. Laughlin, who also are Burlington employes, to perform this work.

lifts and move material as required by the carrier and the disposition of the material handled had nothing to do with the dispute before us. The agreement was violated and the claim must be sustained.

/s/ R. W. Blake

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.

On September 30, 1955, Carriers locomotive shops at Denver was closed permanently and claimant Overholt was furloughed. On May 25, 1956, the structure was sold. During April 1956 two system electricians, among other employes, worked at removing machinery from the building, and incidental thereto used some of the overhead cranes which had previously been operated by the shop electricians.

Claim is now advanced for eight hours pay for 8 days on the ground that Rule 28 has been violated. The rule in essence provides:

"Service When Shops Are Closed

Rule 28. When Shops are closed and it is necessary to make repairs to shop machinery or perform other urgent work, senior employes . . . will be called to perform such work."

From the facts submitted, it is evident that this was a removal operation. It does not appear that it was "necessary to make repairs to shop machinery or perform other urgent work." This finding coupled with the understanding that system electricians should, "perform all . . . A.F.E. work" requires a denial of this claim.

AWARD

The Claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 10th day of November, 1958.