Award No. 3188
Docket No. 2938
2-B&M-BM-'59

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Dudley E. Whiting when award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 18, RAILWAY EMPLOYES' DEPARTMENT, A. F. of L.—C. I. O. (Boilermakers)

BOSTON AND MAINE RAILROAD

DISPUTE: Claim of Employes:

1. That under the terms of the controlling agreement, the Carrier unjustly furloughed Boilermakers S. A. White and R. O. Parent and Boilermaker Helper E. Gulo on June 1, 1956 at East Deerfield, Massachusetts Enginehouse, by virtue of having improperly assigned their duties—Boilermakers' work—to other than Boilermakers.

2. That accordingly the Carrier be ordered to restore the aforesaid employes to service and compensate them for all time lost retroactive to June 1, 1956.

EMPLOYES' STATEMENT OF FACTS: The Boston & Main Railroad, hereinafter referred to as the carrier, operates an enginehouse at East Deerfield, Massachusetts, seven (7) days per week, three (3) shifts each day.

Boilermaker S. A. White and Helper E. Gulo hereinafter referred to as claimants were assigned to the first shift, Monday through Friday, with rest days Saturday and Sundays. Boilermaker R. O. Parent also referred to hereinafter as claimant, was assigned to the third shift, Monday through Friday, with rest days Saturday and Sunday. Effective June 1, 1956, the carrier furloughed the claimants, leaving no boilermakers employed at East Deerfield, and assigned the boilermakers' work to welders, electricians, machinists and others to perform. Prior to June 1, 1956, all crafts were employed in the East Deerfield Seniority District. The only craft not now employed is the boilermakers.

1956—June
July
August
September
October
November

1957—January
June
September

Carrier's payroll records show that Claimant Parent worked full time as a carman through June of 1957, and subsequently worked as a machinist being furloughed again on June 6, 1957, then called back to work again on August 3, 1957. Thus, Claimant Parent lost no compensation, except in June and September of 1957, and is eligible to make claim, only, as follows:

15 Work days—June 1957
20 Work days—September, 1957

35 Work days.

The question is simply whether or not the carrier is required to employ a full time boilermaker at East Deerfield Enginehouse when fifteen or more steam generator washouts were performed in June and September of 1957—or was the carrier permitted to apply the provisions of Article VII of the August 21, 1954 Agreement, which allows the carrier to use any mechanic on duty to do the subject work. The answer can only be "yes", the carrier can use a mechanic of any craft to do the subject inspections.

"Any competent employe can be designated as an inspector". This statement conforms with I.C.C. regulations under Act of Congress approved February 17, 1911, as amended March 4, 1915 and cited in support of denial in Second Division Award No. 309, Referee John A. Lapp participating.

CONCLUSION

Therefore, this claim should be denied in view of the foregoing and because:

(1) "Anyone can inspect"—Second Division Award 309.

(2) Article VII of the August 21, 1954 Agreement permits the use of any mechanic on duty to do mechanic's work when insufficient work to employ a mechanic of each craft.

(3) Emergency Board's recommendations to the President of the United States dated May 16, 1954, which resulted in the August 21, 1954 Agreement, supports the carrier's position that all classification of work rules were relaxed to conform with number two above.

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.

Parties to said dispute were given due notice of hearing thereon.

The carrier asserts that claimants were furloughed because of a minimum amount of boilermakers work remaining at that point, averaging not in excess of two hours per day, and that the work was subsequently performed by other mechanics in accordance with Article VII of the August 21, 1954 agreement, which is in part as follows:

> "At points where there is not sufficient work to justify employing a mechanic of each craft, the mechanic or mechanics employed at such points will, so far as they are capable of doing so, perform the work of any craft that it may be necessary to have performed."

Thus, the issue is whether there was sufficient work at this point to justify the employment of boilermakers. The employes have shown extensively what constitutes boilermakers' work but have not shown how much time was required to perform same at this point. They simply contend that no change was effected to make the volume of such work less after June 1, 1956 than before that date. Even if true, that does not prove that anywhere near a full days work of that type remained. Probably the best evidence that there is not sufficient work to justify employing a mechanic of each craft is the fact that the remaining mechanics have performed all work required. Whether or not mechanics of some other craft should have been furloughed, instead of boilermakers, could only be determined by time checks, which have not been provided.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 27th day of April, 1959.

DISSENT OF LABOR MEMBERS TO AWARD 3188.

In Award 3188 the majority recklessly disregarded the record, the controlling agreement and the statements of the parties before the referee in reaching their erroneous conclusion.

The carrier's bare assertions are accepted without the carrier being required to offer any supporting evidence (fifth paragraph of the Findings beginning "The carrier asserts * * *"). At the same time the claimants' extensive preparation and presentation are utterly disregarded. See last full

paragraph of Findings, line 2, beginning "The employes have shown extensively * * *").

Further, the majority weakly aver and we quote from the award "Probably the best evidence that there is not sufficient work to justify employing a mechanic of each craft is the fact that the remaining mechanics have performed all work required." Thus the majority by refusing to accept the facts of record erroneously support the transfer of work from one craft to other crafts as a means of subverting the express contractual rights of the claimants. We dissent.

James B. Zink

R. W. Blake

Charles E. Goodlin

T. E. Losey

E. W. Wiesner