

Award No. 3194

Docket No. 2989

2-GM&O-CM-'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. 29, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L.—C. I. O. (Carmen)**

**GULF, MOBILE AND OHIO RAILROAD COMPANY
(Southern Region)**

DISPUTE: CLAIM OF EMPLOYES:

1. That the Carrier violated the contractual rights of 12 Carmen-Burner-Welders and the intent of Rule 17 of the controlling agreement when, on November 2, 1956, it purportedly abolished their positions and re-advertised them as vacancies on the same date.

2. That accordingly the Carrier be ordered to restore the original number of Carmen-Burner-Welders (D. B. Johnson, J. E. Fortner, J. T. Tate, O. J. Norwood and C. E. Chapman) who were finally and actually affected, to their positions as Carmen-Burner-Welders and compensate them for any difference in pay which they would have earned and that which they were paid on dates subsequent to November 2, 1956.

EMPLOYES' STATEMENT OF FACTS: D. B. Johnson, J. E. Fortner, J. T. Tate, O. J. Norwood and C. E. Chapman, hereinafter referred to as the claimants, were employed by the Gulf, Mobile and Ohio Railroad, hereinafter referred to as the carrier, as carmen-burner-welders at Mobile, Alabama, up to and including November 2, 1956.

On October 31, 1956, carrier posted bulletin, submitted and identified as Exhibit A, abolishing 14 carmen-burner-welder positions held by claimants and 9 other carmen at Frascati Shop and Beauregard Street Rip Track, to be effective at the close of work day, 3:30 P. M. November 2, 1956.

On the same day, October 31, 1956, the carrier posted two (2) bulletins, copies submitted and identified as Exhibits B and B-1, respectively. Ex-

by abolishing such a position and creating another position which will meet such needs. That idea is erroneous, and Interpretation No. 6 so shows.

Carrier contends that the force of carmen at Mobile was properly adjusted on November 2, 1956 under the provisions of Interpretation No. 6,

and that after that time the claimants worked on positions of their choice which paid the regular rate and not a "differential rate" wholly as a result of their failure to bid on advertised positions paying "differential rates" if they were qualified therefor. Of course, the question of qualification could not have arisen until after a bid or request had been made.

Carrier submits that claimants have been paid at the proper rate for work performed since November 2, 1956, and that the positions paying "differential rates" which they had held prior to that date were properly abolished according to the provisions of Interpretation No. 6.

Even if the claims involved in this submission had merit, which they do not, they would still be contrary to the interpretation of ARTICLE V of the National Agreement dated August 21, 1954 accepted by former General Chairman Schneblin in March 1956.

The instant claims are without merit and should be denied, and carrier prays your Honorable Board to so hold.

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.

Prior to October 31, 1956 there were 14 differential rate positions of Carman-Burner-Welder. The carrier decided that its needs would be better served by 12 positions all of which could perform electric welding, which was not true then. On October 31st it abolished those 14 positions and bulletined 12 positions of Carman-Electric Welder and Acetylene Burner. No reduction was made in the number of carmen employed.

Interpretation No. 6 provides in part:

"In the future when it is necessary to adjust the forces for any cause, the position, or positions, to be made vacant will be abolished."

The employes contend that since only two positions were eliminated, only two could be abolished. However, that would not accomplish the desired change of the remaining 12 positions to that of electric welder and no method of accomplishing that result appears, except to abolish the former positions

and bulletin the positions required. That accomplished an adjustment of the forces to meet the needs of the service.

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.