

Award No. 3459
Docket No. 3441
2-P&LE-TWUOA-'60

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Francis B. Murphy when the award was rendered.

PARTIES TO DISPUTE:

**RAILROAD DIVISION, TRANSPORT WORKERS
UNION OF AMERICA, A. F. L.-C. I. O.**

**THE PITTSBURGH & LAKE ERIE RAILROAD COMPANY
AND THE LAKE ERIE & EASTERN RAILROAD COMPANY**

DISPUTE: CLAIM OF EMPLOYEES: On April 28, 1958, J. Zehr and A. Pawlak were awarded jobs in the valve room. On May 8, 1958 they were disqualified.

The Organization feels that these men were discriminated against by the Carrier.

The Carrier claims that these employees did not get their quota of valves yet F. Neal was awarded a job on November 19, 1957 and worked at this job until March 14, 1958 when it was abolished and only twice got his quota, yet he was not disqualified.

The Organization feels that J. Zehr and A. Pawlak did not receive proper treatment from the Carrier when they were disqualified and for this reason ask that these men be reinstated as valve repairmen and also be paid the difference between carmen wages and valve repairmen wages for the following days: May 9, 12, 13, 14, 15, 16, 1958.

EMPLOYEES' STATEMENT OF FACTS: That J. Zehr and A. Pawlak had been carmen and had never repaired valves until they had been awarded the job as bid by them.

That as new men in the valve room and never having done this work before it was impossible for these men to get the same amount of valves as the men that had worked in the valve room for years.

That the carrier does not treat all employees that bid and receive jobs in the valve room in the same manner.

The carrier respectfully submits that the claim of Carmen Zehr and Pawlak is without merit and should be denied.

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 April 28, 1958 claimants were awarded position in valve room, on May 8, 1958 they were disqualified.

The Organization contends that the claimants did not receive proper treatment and they should be reinstated as valve repairmen and paid the difference between carmen wages and valve repairmen for the days in question. They state that a Mr. F. Neal, another employe, was working in the valve room for over four months, and he only met his quota twice in this period of time.

The Carrier shows by their records that Mr. Neal was permitted to work in the air brake room for a brief period of time, then he was furloughed. The four month period, referred to by the Organization, he spent in the air brake room as a triple valve tester, not as a repairman. On the 5th and 6th days actually worked as a valve repairman he increased his output to 9 and 12 valves, respectively. Thereafter, his production remained at 12 valves per day until he left the job on November 10, 1958.

This record indicates that the claimants never exceeded a total of 5 valves per day. The claimants were advised at the time that they were awarded their assignments as valve repairmen that they would be required, after a fair qualifying period, to complete the daily quota of valves which was being met by other valve repairmen.

The record here does not sustain the Organization's contention that the Carrier discriminated against the claimants. The Carrier after giving Mr. Zehr and Mr. Pawlak a fair opportunity to qualify determined that they should be disqualified. There is no evidence to prove that the Carrier acted arbitrarily, unreasonably, or discriminated against the claimants.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 2nd day of May, 1960.