

Award No. 3584
Docket No. 2896
2-CMS tP&P-MA-'60

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee James P. Carey, Jr., when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 76, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L. - C. I. O. (Machinists)**

**CHICAGO, MILWAUKEE, ST. PAUL AND
PACIFIC RAILROAD COMPANY**

DISPUTE: CLAIM OF EMPLOYES:

(1) That under the current agreement Machinists A. B. Coughlin, Isidore J. Brey, H. O. Gordon and H. A. Bode were wrongly laid off and their work assigned to foremen.

(2) That accordingly the Carrier be ordered to discontinue using Foremen to perform Machinist work, and compensate the above named Claimants at Machinist rate of pay beginning February 16, 1957 until such time as they are properly assigned at Madison, Wisconsin.

EMPLOYES' STATEMENT OF FACT: On February 1, 1956 the carrier had in its employe, two (2) foremen, four (4) machinists and four (4) helpers and several laborers, distributed over 3 shifts in the locomotive department at Madison, Wis.

On February 8, 1957 notice was posted on the Madison Division by the master mechanic advertising a vacancy for an assistant foreman to work in the locomotive department at Madison.

On February 11, 1957 notice was posted at the Madison roundhouse notifying the above named claimants that they were to be laid off at the close of their shift on February 15, 1957.

Beginning on February 16, 1957, three (3) foremen took over the duties of the claimants and have, since that date, continued to perform the work of the claimants, which is contrary to Rule 31, 32, 51 and 53 of the agreement.

On February 18, 1957 notice was posted at the Madison roundhouse re-arranging the helper forces.

The agreement of 1949 and subsequently amended is controlling.

tion "working foremen" and "equipment maintainers" would be discontinued and that such positions ("working foremen" and "equipment maintainers") would not be established in the future except by agreement, it did not agree, nor could it properly agree with System Federation No. 76, that it would not establish foremen positions, as referred to in Rule 32 (a), nor did it agree that such foremen, as referred to in that rule, would not perform mechanic's work at points where no mechanics are employed in accordance with the provisions of Rule 32 (a). In other words, the monthly rated "working foremen" and "equipment maintainer" positions which the carrier agreed not to establish except by agreement, were not and are not the foremen positions referred to in Rule 32 (a).

Aside from the fact that Rule 32 (a) specifically provides that foremen may perform mechanic's work at points where no mechanics are employed, without regard to the amount of machinist work involved, we submit that the record will clearly show that there is far from sufficient machinist work at Madison, Wisconsin to justify the employment of a machinist.

We respectfully request a denial award.

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.

It is claimed that the carrier violated its current agreement with System Federation No. 76 by abolishing machinists' positions at Madison, Wisconsin roundhouse on February 15, 1957, increasing the number of foremen at that point and assigning machinist's work to foremen. The employes rely on the Seniority and Classification of Work Rules as well as the provisions of a Mediation Agreement of December 14, 1955, which discontinued the designations of "working foremen" and "equipment maintainers" and prohibited subsequent creation of such positions without mutual agreement.

The carrier maintains that the force reduction was justified by reason of dieselization and reduced train operations at Madison; that appointment of an assistant foreman was not barred by the Mediation Agreement, and that Rule 32(a) of the current agreement permits foremen to perform mechanics work at points where no mechanics are employed.

The record reveals that the work force in the Locomotive Department at Madison has steadily declined since before 1954. In 1954 there were 36 men employed in the Locomotive Department. The force was reduced in 1955 and 1956, and as the result of the complained of reduction in February 1957, the work force was cut to 12 men and consisted of 2 foremen, 1 relief foreman, 2 machinist helpers, 1 relief machinist helper, 3 laborers, 2 relief laborers, and 1 hostler. In three years this work force has been curtailed about 67% apparently because of the reduction in volume of work at that point. It appears that engines which had previously received maintenance and heavy repairs at Madison are maintained and repaired at Milwaukee, Chicago and

other shop points, and since February 1957, the primary function of the Madison Locomotive Department has been to provide inspection and light immediate repairs. The number of trains in and out of Madison was reduced prior to February 16, 1957, and there have since that date been 4 passenger trains daily, 4 freight trains daily except Sunday and 2 way freights weekly.

Rule 32 (a) provides:

“None but mechanics or apprentices regularly employed as such shall do mechanics’ work as per special rules of each craft, except foremen at points where no mechanics are employed.”

No mechanics have been employed at Madison since February 16, 1957. As occasion requires, the carrier has assigned a foreman employed at that point to perform such mechanic’s work as may arise which, in general appears to have been of a comparatively minor nature.

The employes maintain that some amount of machinist’s work has been required and therefore the carrier has wrongfully abolished machinists’ jobs and transferred their work to what they term “working foremen”. They also contend that a working foreman job was established to assist in performing such machinist’s work in violation of the Mediation Agreement of December 14, 1955.

Rule 32(a) has been in effect on this property for more than 35 years. It is clearly operative at points where mechanics were previously employed but whose jobs were discontinued due to lack of work. The rule should not of course be construed so as to justify any program of evasion whereby mechanics work is improperly transferred to others under the guise of a reduction in work volume. We are unable to say from the evidence of record that such an evasive purpose is shown.

For several years prior to 1956 “working foremen” and “equipment maintainers” were employed on this property and since 1945 they were represented by System Federation No. 76. A Mediation Agreement dated December 14, 1955, between the carrier and System Federation No. 76 provided in part as follows:

“(1) Effective January 1, 1956 the designation ‘working foremen’ and ‘equipment maintainers’ will be discontinued, and such positions will not be established in the future except by agreement.

(2) The Locomotive Department and the Car Department are separate and distinct, one without regard to the other insofar as the provisions of Five Craft Agreement Rule 32(a) and Electrical Workers’ Agreement Rule 53 (first paragraph) are concerned.”

The working foremen and equipment maintainers referred to in this Mediation Agreement are a separate group of employes and not the same as foremen in the Locomotive and Car Department who are represented by the Milwaukee Road Mechanics’ Foremen’s Association. The 2 roundhouse foremen employed at Madison prior to February 15, 1957 and the 3 foremen employed there subsequently are represented by the Foremen’s Association and not by System Federation No. 76. It is evident therefore that the restraint imposed by the Mediation Agreement in respect of establishment of the position of “working foremen” does not extend to the establishment of a foreman or assistant foreman who is represented by the Foremen’s Association. We also think it clear that the Mediation Agreement was not intended to limit

the scope of Rule 32(a) which, as we have noted, permits foremen, at points where mechanics were but are no longer employed, to perform mechanics' work.

The Assistant Foremen's position at Madison was established in February 1957 for the purpose of providing rest day relief on the day and night round house foremen positions. Prior to February 16, 1957, such relief has been provided by machinists.

We conclude that the appointment of an assistant foreman did not violate the Mediation Agreement, and that the facts and circumstances of record sustain that there has been insufficient work at Madison since February 1957 to warrant employment of machinists.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 8th day of November 1960.

LABOR MEMBERS DISSENT TO AWARD NO. 3584

The majority ignored the Mediation Agreement dated December 14, 1955, effective January 1, 1956, which discontinued "working foremen" and "equipment maintainers" and prescribed that such positions would not be established in the future except by agreement between this carrier and the System Federation. When the carrier laid off the machinists employed at Madison, Wisconsin, and established working foremen positions to perform machinists' work, it violated the controlling agreement as revised by the Mediation Agreement.

The current agreement, as amended by the Mediation Agreement, recognizes and preserves the rules, rates of pay, and working conditions of the machinists—therefore Award No. 3584 is in error.

Edward W. Wiesner

R. W. Blake

Charles E. Goodlin

T. E. Losey

James B. Zink