

Award No. 3776

Docket No. 3706

2-PRR-MA-'61

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee William Doyle when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 152, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L.-C. I. O. (Machinists)**

PENNSYLVANIA RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: 1. That under the controlling Agreement Machinist George Stubbs was unjustly dealt with when the Carrier denied him the C Grade rate of pay on December 24, 1958, January 5, 15, 22, 23, 26, 30 and February 2, 1959, for work performed on shop winch and motor (winch PR3034 and motor PR 24362)

2. That the Carrier be ordered to compensate Machinist George Stubbs for the difference between the E Grade rate that he received and the C Grade rate to which he was entitled, for December 24, 1958, January 5, 15, 22, 23, 26, 30 and February 2, 1959.

EMPLOYEES' STATEMENT OF FACTS: George Stubbs, hereinafter referred to as the claimant, is employed by the Pennsylvania Railroad Company, hereinafter referred to as the carrier, as a machinist, in the machine shop, at Hoboken Shops, New Jersey.

On December 24, 1958, January 5, 15, 22, 23, 26, 30 and February 2, 1959, the claimant was assigned to make repairs to a winch and motor (winch PR 3034 and motor PR24362). The carrier has agreed that he was so assigned, in the joint statement of agreed-upon facts of the joint submission, dated April 2, 1959. For the specified assignment the claimant was paid the Grade E rate.

On February 17, 1959, a claim was filed with the foreman, floating equipment, requesting the Grade C rate for the claimant for those days on which he had been assigned to make repairs to the aforementioned winch and motor. The foreman denied the claim on February 20, 1959, and on February 28, 1959, the local chairman submitted the claim to the superintendent of floating equipment, who, in turn, denied it on March 3, 1959. A joint submission was then formulated by the local chairman and the superintendent of floating equipment. In the joint statement of agreed-upon-facts, the carrier has agreed that the claim was properly handled up to and including the superintendent of floating equipment. The claim was then turned over to the general chairman, who handled it with the manager of labor relations, the highest officer of the

1. The claimant was properly paid the Grade E rate for the work he performed in accordance with the established practice at the location.
2. The claimant did not perform Grade C work within the meaning and intent of the explanation to the Grade C "Graded Work Classification."
3. The employes have failed to produce evidence of probative value in support of their contentions.

III. Under The Railway Labor Act, The National Railroad Adjustment Board, Second Division, Is Required To Give Effect To The Said Agreement And To Decide The Present Dispute In Accordance Therewith.

It is respectfully submitted that the National Railroad Adjustment Board, Second Division, is required by the Railway Labor Act to give effect to the said agreement, which constitutes the applicable agreement between the parties, and to decide the present dispute in accordance therewith.

The Railway Labor Act, in Section 3, First, subsection (i), confers upon the National Railroad Adjustment Board the power to hear and determine disputes growing out of "grievances or out of the interpretation or application of agreements concerning rates of pay, rules or working conditions." The National Railroad Adjustment Board is empowered only to decide the said dispute in accordance with the agreement between the parties to it. To grant the claim of the employes in this case would require the Board to disregard the agreement between the parties and impose upon the carrier conditions of employment and obligations with references thereto not agreed upon by the parties to the applicable Agreement. The Board has no jurisdiction or authority to take any such action.

CONCLUSION

The carrier has shown that the work performed by the claimant which is complained of here, is not subject to Grade "C" of the Graded Work Classification covering machinists, and that the claimant is not entitled to the compensation which he claims.

Therefore, the carrier respectfully submits that your Honorable Board should deny the claim of the employes in this matter.

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 basic inquiry is whether a machinist engaged in the reconditioning of a winch and motor which had been attached to a pier and removed to the

machine shop at Hoboken for repair was engaged in Grade "C" work as described in the agreement.

The work performed amounted to dismantle and overhaul of the winch as well as the motor. Some of the parts were, according to the Carrier, refitted and renewed by machine operators or other employes in the shop. It will be helpful to quote in full the relevant classification provision as it appears in the agreement:

C. Grade — Repairs to plant, road machinery and equipment.

Men of high grade skill qualified and assigned to do all around work on miscellaneous repairs to tools, machinery and equipment, including setting up and erecting. (Rate not to be paid to ordinary floor hands assisting in this work).

Carrier's position is that claimant who regularly performs Grade E work was not performing a function which brought him within the Grade C classification and particularly within the explanation set out in the right hand column above. In essence, the Carrier maintains that in order for one to come within the scope of this description and explanation the work must be such as to demand diagnosis, decision making and exercise of initiative in its performance. This supposes a very high degree of skill. No effort is made to distinguish Second Division Awards 2928, 2929 and 2930 all of which refuse to expand the language of repair of shop equipment and machinery. The Carrier candidly concedes their pertinency, but argues that they are so palpably ill-founded that they should be now repudiated.

1. The primary question is whether the work in dispute is as contended by Carrier, out of harmony with the "explanation." Giving full effect to the explanation and disregarding momentarily the plain terms of the classification provision we must say that the dismantling, reconditioning and repairing all constituent parts together with reassembling impresses us as work which requires high grade skill and which would not be entrusted to an "ordinary floor hand assisting in this work." The fact, if it be a fact, that some of the parts were renewed on machines does not detract from the feature that claimant had the overall performance responsibility.

2. The other aspect of the "explanation," "men of high grade skill, etc." is not really in issue. There is no question posed as to the general qualifications of claimant. (The fact that he satisfactorily performed work within the definition speaks for itself.) If some question had been raised concerning the level of claimant's skill, the explanation would be at least relevant. As it is we must assume that the claimant had the requisite skill to discharge the work assigned to him since he in fact performed it.)

3. Finally, it is clear that the winch and motor are within the term "plant equipment," and that the work constituted "repairs to plant, road machinery and equipment."

4. The work here in question is within the guide lines provided in the classification provision and is not contrary to the terms of the explanation. The cited awards also furnish persuasive authority for sustaining the claim.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 22nd day of June 1961.