

Award No. 4748
Docket No. 4675
2-MP-FO-'65

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Howard A. Johnson when award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 2, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L. - C. I. O. (Firemen & Oilers)
MISSOURI PACIFIC RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES: 1. That under the current agreement and letter of understanding dated May 1, 1940, it was improper to transfer the work of Laborers, such as the cleaning of overhead covers and crank case covers to the Machinists Organization or to a Machinist Helper.

2. That the Management of the Missouri Pacific Railroad Company be ordered to desist from assigning other than Laborers to perform the aforesaid work.

3. That accordingly, the Carrier compensate Douglas Armstead and Fred Shelton four (4) hours at their applicable time and one-half rate of pay for March 15 and 16, 1963 respectively. Also Fred Irving at his applicable time and one-half of pay for March 25, 1963.

EMPLOYES' STATEMENT OF FACTS: Prior to March 15, 1963 only laborers were assigned to and performed the cleaning of overhead covers and crank case covers on or removed from diesel units at Ewing Avenue Shop, St. Louis, Missouri. This has been the acknowledged past practice and accepted as such since the advent of the diesel locomotive. The aforementioned work is performed by laborers only at Kansas City, Missouri. Shortly after master mechanic, Mr. J. W. McCaddon was transferred from the Kansas City Shop to St. Louis, he instructed his subordinate officers to transfer and assign laborers' unskilled work to machinists and machinist helpers. This is true and is also substantiated by master mechanic's letter of March 25, 1963 to the undersigned reading:

"St. Louis, Mo.—March 25, 1963
File 176

Mr. W. B. Hayes
General Chairman — Firemen & Oilers

Confirming discussion in my office the morning of Tuesday, March 19, 1963, I am agreeable to allow D. Armstead four (4) hours pro rata rate as a matter of equity for his time claim of February 15, 1963, account Machinist E. Kendall used to clean dirt and grease from Diesel Unit 19-B on that date.

In the most recent award, Award 4465, your board with the assistance of Referee Joseph M. McDonald succinctly stated the principle as follows:

"There is no Classification of Work Rule in the controlling agreement here involved, nor does the Scope Rule of the agreement give the exclusive Contractual right of the work here involved to the Claimant's Organization." In the same manner, the cleaning of parts of diesel units had not been contracted to laborers exclusively and is not performed by laborers exclusively. No rule in the agreement is cited in support of the claim and none was violated.

For the reasons fully explained in this submission, there was no violation of the agreement with the firemen and oilers and the claim is entirely lacking in merit and must 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 employee or employees involved in this dispute are respectively carrier and employee 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 waived right of appearance at hearing thereon.

The claim is "that under the current agreement and letter of understanding dated May 1, 1940, it was improper to transfer the work of Laborers, such as the cleaning of overhead covers and crankcase covers to the Machinists Organization or to a Machinist Helper".

The Organization's Submission includes statements by thirteen employees that they had worked at Ewing Avenue Shop, St. Louis, Missouri, for periods ranging from fourteen to thirty-eight years, respectively, one of them as a Machinist Helper, five as Shop Laborers, six as Laborers, and one in a capacity not stated, and that "During these years, the work of cleaning of overhead covers and crank case covers has only been performed by Laborers" but was recently transferred to a Machinist Helper.

In its Rebuttal the Organization states: "The covers had always been cleaned manually by laborers and not in the lye vat nor in the filter machine." The complaint is that they are no longer being cleaned manually at the Ewing Avenue Shop, but are being taken by laborers to the filter machine, which has always been handled by a Machinist Helper and has been altered so that the covers are run through it automatically. In essence, the contention is not that a laborer should take over the operation of the machine from the machinist helper, but that the manual cleaning of covers should be resumed.

Assuming, but not deciding, that proof of past practice at one point on a railroad system establishes certain work as within the exclusive jurisdiction of employees covered in an agreement which does not detail their work, it would seem to follow that the manual cleaning work should not be transferred to another class of employees. However, there is nothing in the Agreement to forbid the elimination of manual cleaning work and the substitution of mechanical cleaning by means of a machine operated by another class of employees within the scope of their agreement.

The letter of May 1, 1940, referred to in the Claim is not a letter of understanding, but merely a letter by the Carrier declining to enter into an agreement concerning jurisdictional disputes, and declaring its unilateral policy concerning the transfer of work. Award 4465.

A W A R D

Claim denied.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION**

**ATTEST: Charles C. McCarthy
Executive Secretary**

Dated at Chicago, Illinois, this 30th day of July, 1965.