

**Award No. 5060**

**Docket No. 4906**

**2-L&N-FO-'67**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**SECOND DIVISION**

**The Second Division consisted of the regular members and in addition Referee Harry Abrahams when award was rendered.**

**PARTIES TO DISPUTE:**

**SYSTEM FEDERATION NO. 91, RAILWAY EMPLOYEES'  
DEPARTMENT, AFL-CIO (Firemen & Oilers)**

**LOUISVILLE AND NASHVILLE RAILROAD COMPANY**

**DISPUTE: CLAIM OF EMPLOYEES:**

That Electricians and Electrician Helpers, South Louisville Electric Shop, were improperly used to perform General Shop Cleanup work from 12:30 P. M. to 3:30 P. M. on May 8, 1964, and that accordingly Electric Shop Laborer L. G. Johnson should be additionally compensated for fifty-four (54) hours at time and one-half (1½) rate of pay.

**EMPLOYEES' STATEMENT OF FACTS:** Due to a so-called critical inspection by officials of the Atlantic Coast Line Railroad, the carrier resorted to the use of all available employees of the electricians craft to clean up accumulated scrap material and debris of all kinds, using Electricians J. W. Keneales, J. D. Wohlbold, K. E. Carr, T. E. Scrivner, C. E. Toole, N. Wilder, J. W. Harless, W. A. Gambrell, R. J. Kissling, J. O. Sullivan, D. Lane, F. Bicker, and W. E. Goodloe; Electrician Helpers T. J. Korb and E. G. Trout; and Electrician Apprentices W. G. Callahan, K. L. Lindsey and R. E. Young starting them at 12:30 P. M. and using them until 3:30 P. M.; three (3) hours for a total of fifty-four (54) hours.

The dispute was handled with carrier officials designated to handle such affairs who all declined to adjust the matter.

The agreement effective June 1, 1942, as subsequently amended, is controlling.

**POSITION OF EMPLOYEES:** That the carrier violated the firemen and oilers' agreement, Rule 1 (B), i.e., shop laborers. Historically, for forty (40) or more years, the cleaning of shops and yards has been assigned to shop laborers.

Over the past several years the carrier had gradually reduced the force of shop laborers to the extent that there is now only one (1) laborer

It is the practice on carrier's property for mechanics in the air brake shop, the battery shop, the wheel shop, the injector shop, the machine shop, the tool shop, the paint shop and the various tool cribs, to regularly clean machines, motors, etc., and handle material. For instance, electricians keep motors clean and crane operators (when overhead operated) sweep their cabs and walk runways on the crane.

All shop cleaning is not the exclusive right of shop laborers. The firemen and oilers' agreement which became effective June 1, 1942, did not change the practice or custom of having mechanics clean up around their area. By custom, brooms and mops are part of the laborers' tools of employment, but bench brushes are used by mechanics and not laborers. In this case, brooms were issued in lieu of bench brushes for cleaning of benches, etc.

As aforesated, this is nothing more than a penalty claim. Such, however, is not provided for by the agreement. In this connection see Second Division Award 3672, and Third Division Awards 13236 and 13237.

In further support of its position, carrier also calls attention to Second Division Awards Nos. 1269, 1688, 1951, 2377, 3406 and 3410.

In conclusion, carrier submits it has shown there is no basis for the claim and respectfully requests that the claim be denied in its entirety.

**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 has been the custom and practice for mechanics to clean up around their individual work stations.

The Electricians on May 8, 1964 from 12:30 P. M. to 3:30 P. M. did not perform laborer's work in the electrical shop when they separated usable material from scrap. The claim of the claimant herein must be denied.

#### AWARD

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 March, 1967.

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