

The Second Division consisted of the regular members and in addition Referee David P. Twomey when award was rendered.

Parties to Dispute: { International Association of Machinists and
 { Aerospace Workers
 {
 { St. Louis-San Francisco Railway Company

Dispute: Claim of Employees:

- (a) On April 12, 1974 on the 4:00 P.M. shift, Foreman Prugger, on at least 5 different occasions, performed machinists work in violation of Rule 31(a). The work performed by the Foreman was unlocking the Tool Room and handing out tools. This work is regularly performed by Machinist A. Biggs.
- (b) That accordingly, the St. Louis-San Francisco Railway Company be ordered to compensate Machinist Jim Murphy for 8 hours pay at penalty rate.

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 waived right of appearance at hearing thereon.

The Record of the instant case is such as to require the dismissal of the entire dispute without passing on its merits. In the Employees' Ex Parte Submission to this Board, the "DISPUTE AND CLAIM OF EMPLOYEES" states:

"(b) That accordingly, the St. Louis-San Francisco Railway Company be ordered to compensate Machinist Jim Murphy for 8 hours pay at penalty rate."

The Petitioner thereby identifies the Claimant before this Board as Jim Murphy. The claim progressed to the highest officer of the Carrier was on behalf of Machinist Biggs. Section 3, First (i) of the Railway Labor Act contemplates that the claim denied by the Chief Operating Officer on the property be the claim that may be referred to the Board.

We thus are compelled to dismiss this claim.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 14th day of July, 1976.