

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13342

Docket No. 13146

98-2-96-2-47

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

(International Association of Machinists and
(Aerospace Workers

PARTIES TO DISPUTE: (

(Grand Trunk Western Railroad Incorporated

STATEMENT OF CLAIM:

“(1.) That the Grand Trunk Western Railroad Company violated the applicable provisions of Rules 15, 27 and 45 of the September 1, 1949 controlling agreement when on the dates of November 24, 25, December 3 and December 12, 1994 it improperly permitted a ‘temporary’ assigned foreman D. Price to return to his class and craft to perform Machinist work at the Carrier’s Flat Rock, Michigan locomotive servicing facility.

(2.) That in the initial presentation of the Employees’ claims to the first level Carrier officer designated to handle such matters, specific reason was not thereafter given by said Carrier officer as to why the Employees’ claims were denied thereby constituting a violation of Rule 29(a) (Article V of the August 21, 1954 National Agreement.)

(3.) That accordingly, the Carrier be ordered to compensate Flat Rock Machinist employee M. Erickson in the amount of eight (8) hours at the overtime rate of pay for Machinist work performed by ‘temporary’ foreman D. Price on November 24, 1994; Flat Rock Machinist employee F. Hammack in the amount of eight (8) hours at the overtime rate of pay for Machinist work performed by ‘temporary’ foreman D. Price on November 25, 1994; Flat Rock Machinist employee G. Gorman in the amount of eight (8) hours at the overtime rate of pay for Machinist work performed by ‘temporary’ foreman D. Price on December 3, 1994; and Flat Rock Machinist employee G. Norton in the amount of eight (8) hours

at the overtime rate of pay for Machinist work performed by 'temporary' foreman D. Price on December 12, 1994."

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 were given due notice of hearing thereon.

The question in this case is whether the Parties' Agreement legitimizes the assignment of a Machinist to work a Temporary Foreman's position and then work his regularly assigned Machinist position within a 24 hour period.

In support of its position, the Organization relies upon Agreement Rules 15, 27 and 45. These Rules, in pertinent part, read as follows:

"Rule 15

Mechanics in service will be considered for promotion to positions of foremen. The names of mechanics so promoted will be continued on the seniority list and they will continue to accumulate seniority in the craft from which promoted.

Mechanics promoted to positions of foremen (other than temporary), may when released from such position other than on their own request, exercise their seniority as mechanics on vacancies or newly created positions. The rights of a mechanic who leaves a position of foreman at his own request will be subject to negotiation between the General Chairman of the Craft involved and the proper officer of the railway.

Mechanics temporarily promoted to positions of foremen will on release from such temporary employment return to their regular assignments as mechanics."

"Rule 27 (a)

(a) 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.

This rule does not prohibit foremen in the exercise of their duties to perform work."

"Rule 45

Machinists' work shall consist of laying out, fitting, adjusting, shaping, boring, slotting, milling and grinding of metals used in building, assembling, maintaining, dismantling and installing locomotives and engines (operated by steam or other power), pumps, cranes, hoists, elevators, pneumatic and hydraulic tools and machinery, scale building, shafting and other shop machinery, ratchet and other skilled drilling and reaming; tool and die making, tool grinding and machine grinding, axle truing, axle, wheel and tire turning and boring; engine inspecting, air equipment, lubricator and injector work; removing, replacing, grinding, bolting, and breaking of all joints on superheaters, oxyacetylene, thermit and electric welding on work generally recognized as machinists' work; the operation of all machines used in such work, including drill presses and bolt threaders using a facing, boring or turning head or milling apparatus; and all other work generally recognized as machinists' work. On running repairs, machinists may connect or disconnect any wiring, coupling or pipe connections necessary to make or repair machinery or equipment.

This rule shall not be construed to prevent engineers, firemen and cranemen of steam shovels, ditchers, clam shells, wrecking outfits, pile drivers and other similar equipment requiring repairs on line of road from making any repairs to such equipment as they are qualified to perform."

The Board carefully reviewed the extensive record developed by the parties in support of their respective positions. However, we cannot find Agreement support for the proposition that a Machinist cannot work his regular craft shift, i.e., as a Machinist and on that same day work a temporary assignment as a Foreman. Certainly, the Machinist, when he is assigned to the Foreman position, cannot perform the tasks of the craft in his regular assignment, except as provided in Rule 27(a). But, that is not the case here.

In summary, there is no specific prohibition in the above-cited Rules to prevent the Claimant from working two separate and distinct shifts. The Board also notes that our ruling here is given further substance because the practice at the Carrier's Flat Rock, Michigan, facility (the site of this claim) as well as the Carrier's Flint and Pontiac facilities support the Carrier's position. On the other hand, the Organization relies on the past practice at the Carrier's Battle Creek location. Thus, there is no system-wide past practice.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 24th day of November 1998.