

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

MISSOURI PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: "Claim of Employees' Committee, first; that the Carrier violated current agreement, last paragraph of Section 2 of the Scope, reading: 'Blacksmiths (gas and electric welders) helpers and laborers (doing maintenance of way work.)' by assigning a water service repairman to perform the work of welding in connection with certain repair work on the coal chute at Marquette, Kansas; Second; that Welder R. G. Miller, shall be paid the difference between what he received as welder helper and that which he should have received as a welder for the days during the period January 6th to 17th, 1939, that the water service repairman was assigned to weld on the coal chute at Marquette, Kansas."

EMPLOYEES' STATEMENT OF FACTS: "R. G. Miller is qualified as, and holds seniority rights as a maintenance of way welder, Western District, Missouri Pacific Railroad. Prior to January 6, 1939, by reasons of force reduction, Miller had exercised his seniority as a welder helper and he, together with the Maintenance of way welder he was helping, was assigned to perform certain maintenance of way welder's duties in connection with repairs on the coal chute at Marquette, Kansas. On January 6, 1939, the services of an additional welder were required in connection with these repairs, and a water service repairman was called to perform this service. The water service repairman was working as a welder from January 6th to 17th inclusive. While this water service repairman was thus working as a welder on the Marquette coal chute, R. G. Miller was employed in the capacity of welder helper assisting the maintenance of way welder and the water service repairman."

CARRIER'S STATEMENT OF FACTS: "During month of January 1939 the coaling station at Marquette, Kansas was in need of repairs that required the welding of a reinforcement strip of steel 5/8" thick by 3" wide 30 ft. long on inside track where coal hopper operates on small wheels in the electric automatic mechanical coaling station at that point."

"The ordinary maintenance and repairs to coaling stations are handled by composite mechanics—water service repairmen of the M. of W. Department—who are qualified welders, however, on this particular job the water service repairman required assistance. A maintenance of way blacksmith crew of which the claimant, Mr. Miller, was a member working in the capacity of welder helper, assisted the water service mechanic with the job at Marquette."

POSITION OF EMPLOYEES: "Paragraph (b) of the Scope of Agreement in effect between the Missouri Pacific Railroad and the Brotherhood of Maintenance of Way Employees, reads:

POSITION OF CARRIER: "In the presentation of this case to the Carrier the Employees asked that Mr. Miller, who holds seniority rights as a maintenance of way welder (blacksmith), be compensated for the time worked assisting the water service repairman in repairing the coal chute at Marquette during the period January 6th to 17th (except 8th and 15th) for the difference between what he earned as a helper and the mechanic's rate, on the basis that Miller, having seniority rights as a blacksmith welder as well as a helper, should have been allowed to perform the service of a mechanic on the coal chute that was performed by the water service repairman. The Employees cited no rule to support their contention.

"For the purpose of specifically defining the classes of employees that are subject to wage agreement with the Maintenance of Way Employees, the scope rule thereof is sub-divided into three classes, viz:

- "(a) Employees in the B&B Department.
- (b) Employees in the Roadway Track Department, and
- (c) All other employees performing work properly recognized, belonging to and coming under the jurisdiction of the M. of W. Department that are not defined in sub-divisions (a) and (b).

"Water Service Foremen, assistant foremen, repairmen, helpers, laborers and pumpers are in Class (a).

"Blacksmiths (gas and electric welders) helpers and laborers doing maintenance of way work are in Class (b).

"The rules of our wage agreement do not embrace what are termed 'classification of work' rules such as that appearing in some other agreements with various classes of employees including the Federated Shop Crafts. However, under our established practices the maintenance of coal chutes are generally maintained by B&B Department employees that includes the group of water service men, however, when occasion requires, employees in other sub-departments, such as welders in the track department, are called to assist other M. of W. forces in other sub-departments, such as water service men when they needed help as in this instance.

"B&B gangs are furnished with welding torch and do such welding as is ordinarily required in the course of handling their work. All water service department gangs have welding torches and likewise do such welding work as is required in connection with the work they are assigned. M. of W. blacksmith welders, of course, are equipped with welding paraphernalia as generally their work is confined to repairing of frogs, building up rail ends and such work as is required in maintenance of track, but, as stated above, it has always been our practice, and heretofore unquestioned, for employees in sub-departments of the Maintenance of Way Department to perform such work as they are assigned and qualified to handle.

"There is no rule in our wage agreement or established practice that would support the Employees' contentions in this case. Should the Board sustain the contentions of the Employees it would, in effect, establish a 'classification of work' condition that the rules of our agreement do not contain, and as a matter of fact the request of the Employees for a 'classification of work' rule presented by them and considered in negotiations that preceded the consummation of current wage agreement dated July 1, 1938 was denied by the Carrier and accepted by the Employees."

OPINION OF BOARD: Rules of the Agreement between the parties, effective July 1, 1938, do not support the claim in this particular case.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the carrier and the employe involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the claim should be denied.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 27th day of March, 1940.