

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Richard F. Mitchell, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES**

NORTHERN PACIFIC RAILWAY COMPANY

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood in behalf of Mr. Nick Cost that the position occupied by Mr. Cost on October 14, 1939, was and is that of working foreman and should be so classified and rated (effective October 4, 1939) and should be bulletined to employees of the Tacoma Division, based on Rules 11, 76 and 78 of the Clerks' Schedule."

EMPLOYEES' STATEMENT OF FACTS: "On October 14, 1939, Mr. Nick Cost was employed as a laborer in the Store Department of the Northern Pacific Railway Company at South Tacoma, Washington. He was assigned to service with a locomotive crane, working in the lumber yard, having charge of three other men, loading and unloading lumber and poles. He was furnished with a list of material to be loaded out and was required to see that the proper material was loaded out and that flat car loads were properly loaded and blocked. He was assigned as 'ground man' with the crane but was actually performing work which should be performed by a 'working foreman.' In connection with material received, he was required to check the number of pieces and see that it was piled in the proper place. Claim was filed on October 14, 1939, that the position be classified and rated as working foreman and bulletined to employees affected."

CARRIER'S STATEMENT OF FACTS: "Mr. Nick Cost is employed as groundman with locomotive crane assigned to the Store Department at South Tacoma. This crane performs work in connection with handling lumber, heavy timbers, heavy castings and other material that cannot easily be handled by manual labor. The crane is manned by a crane engineer and by a groundman, the latter giving the crane engineer signals for loading and unloading operations of the crane, and also performs laborer's work with other members of the crew. The groundman receives the laborer's rate. This is the same arrangement that is in effect at all other points on the Northern Pacific Railway where locomotive cranes are used in the Store Department."

"When this locomotive crane performs service in the lumber yard in either loading or unloading lumber, the work is under the direction and supervision of the lumber yard foreman or one of the sub-foremen classified as lumbermen."

POSITION OF EMPLOYES: "Employees contend that the position held by Mr. Cost on October 14, 1939, was and is that of a working foreman. While classified and paid as a laborer, he was the lead man in a group of

lumber yard, there can be no possible basis for a claim that Mr. Cost's position should be reclassified to that of a working foreman. The facts in this case and the schedule rules cited by the Employees to sustain the claim make it perfectly plain that the claim has no merit."

OPINION OF BOARD: When this case was heard before the Third Division in November, 1940, the facts and contentions of the respective parties were in such conflict that the Board requested them to make a joint check defining the duties of laborers and working foremen and the particular duties performed by the position occupied by Mr. Cost, and to determine whether or not any changes had occurred in his duties at time claim was filed or subsequent thereto. The joint check, bearing date of January 22, 1941, was subsequently filed. We quote the material part of that investigation:

"Mr. Nick Cost has worked in the Store Department off and on since 1914—Last continuous employment since 1920.

"It is agreed that there have been no changes in the work of this position of groundman subsequent to the date this claim arose.

"The groundman works with the locomotive crane, and gives hand signals to the crane engineer, in connection with the operation of the crane.

"The locomotive crane handles heavy material such as car sills, bridge stringers, caps, girders, ties and piling. There are four men assigned with the crane in addition to the crane engineer.

"A list of material to be unloaded or loaded is handed to the groundman, and his duties consist of counting the number of various sized pieces that are handled. Mr. Cost keeps no records, and stated that he is unable to write, except to make out time slips and sign his name.

"Mr. Cost stated that the lumbermen supervised the work of the crane crew, and also another crew of men who work in the same vicinity. These two crews consist of eight men and the crane engineer.

"Mr. Cost also stated that if any question arose, he referred the matter to the lumberman, and worked on orders received from the lumberman.

"All men in this crew are experienced men, none of them having less than three years' experience in the lumber yard.

Respectfully submitted,

(S) Ralph Speer
General Chairman
Brotherhood of Railway &
Steamship Clerks, Freight
Handlers, Express and Station
Employees."

(S) M. J. Byrnes
Assistant to Vice President
Northern Pacific Rwy. Co.

The question which confronts us here is whether or not the position held by Nick Cost and classified as a groundman (laborer) should be reclassified as that of a working foreman and he be compensated accordingly. The employees in their answer to the position of the carrier state that they are not claiming that the general classification of groundman is anything more than that of a laborer, but request a reclassification of one certain position because of the duties assigned to and performed by Cost, the occupant of that particular position.

The parties agree that a working foreman in the store department of Northern Pacific Railway Company at South Tacoma, Washington, performs the following duties:

"Working Foreman: This class of employe works in and around the store room proper, and performs such work as may be required, such as loading, unloading, storing, and handling of material under the direction of the store foreman, making necessary records thereof. He performs manual labor with the men whom he is assigned to supervise, and is held responsible for the work performed and for their supervision."

The joint check shows that Cost kept no records; that no men were assigned to him to supervise; that he worked under the direction and supervision of the lumberman; that the title of "lumberman" is synonymous with the title of "foreman." The joint check shows that Mr. Cost is performing laborer's work and the claim must, of necessity, be denied.

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 there is no violation of the current agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 18th day of July, 1941.