

Award Number 4609

Docket Number MW-4653

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Dudley E. Whiting, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

MISSOURI PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood:

(1) That the Carrier violated the Agreement by not compensating B&B Mechanic Ira E. Faulkenberry at the Welder's rate of pay while he was welding on April 24, 26, 27, 28, 29 and 30, 1948;

(2) That B&B Mechanic Ira E. Faulkenberry be now reimbursed for the difference between what he received at the B&B Mechanic's rate and what he should have received at the Welder's rate on dates named in part 1 of this claim.

EMPLOYEES' STATEMENT OF FACTS: Ira E. Faulkenberry, St. Louis, is a regularly assigned B&B Mechanic on the St. Louis Terminal, Missouri Pacific Railroad, with a rate of pay of \$1.18 per hour.

On April 24, 1948, in accordance with instructions of his supervisory officer, Mr. Faulkenberry reported to Electric Welder Welch. Electric Welder Welch instructed Faulkenberry in the use of a special electric device used to weld studs on the roof and siding of the new Diesel house. As soon as Mr. Faulkenberry was properly instructed and broken in on the job, Welder Welch left him to continue on the performance of the work of welding new studs to this new Diesel building.

Mr. Faulkenberry worked on this assignment eight (8) hours per day on each of the following dates—April 24, 26, 27, 28, 29 and 30, 1948. During this period involved in the claim, Faulkenberry worked with members of his own crew who were performing the work of fitting and applying the composition roof and siding material, but Faulkenberry and one other B&B Mechanic performed all work with this electric welding device and welded all the necessary studs to the iron frame of this new Diesel house. These studs were the means by which the roofing and siding material was held in place.

The Employees have claimed that Mr. Faulkenberry was performing work on a higher class, that is he was performing the work of an electric welder and should have been paid at that rate of pay. An Electric Welder's rate of pay on the dates involved in this claim was \$1.33 per hour. The Carrier has denied the claim.

The Agreement in effect between the two parties, dated July 1, 1938, and subsequent amendments and interpretations are by reference made a part of this Statement of Facts.

Had the electric hand tool not been put into use and the Carrier then required a welder with welding skill to use welding equipment and actually weld the studs onto the framework, then it might be said that it would have been proper to have used a welder.

The claim is without merit and should be declined.

Exhibits not reproduced.

OPINION OF BOARD: This claim involves the operation of a new electric hand tool which welds a stud bolt to the metal frame of a building. Despite the simplicity of operation of this tool, since it does make a weld the welders would have a right to claim the work in the absence of the establishment of a new position to operate it or agreement upon assigning it to other mechanical classifications.

Since it is our view that the welders could require the assignment of such work to their positions, then it follows that by virtue of Rule 28 of the effective agreement between the parties the claimant is entitled to the higher rate of the welder's position due to his assignment "to work on a higher rated position." Whether he possessed the qualifications of a welder is immaterial since it is the work assignment which entitled him to the higher rate under the rule.

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 Employees involved in this dispute are respectively carrier and employees 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

The Carrier violated the agreement.

AWARD

The Claim is sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 18th day of October, 1949.