

Award No. 9655

Docket No. CL-8311

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Joseph E. Fleming, Referee

PARTIES TO DISPUTE:

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

**CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY**

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

1. Carrier violated the Clerks' Rules Agreement by paying a rate less than the rate established for and paid to operators of automotive equipment of comparable construction and capabilities as the Worksaver.
2. Carrier shall apply the chauffeur's rate of pay to the operator of the Worksaver and bulletin a position of that classification.
3. Carrier shall compensate Employees Gordon Gunsolley, Edward V. Gull, Donald A. Oremus, Thomas Taugher, and all other employees who have operated the Worksaver since October 14, 1954 at a rate below that of chauffeur, the difference in what they have earned on the position to which they are regularly assigned and what they would have earned as a chauffeur.

EMPLOYEES' STATEMENT OF FACTS: Box skids and pallets have been used for many years in the Store Department Milwaukee Shops, Milwaukee, Wisconsin, in connection with stock piling, handling and transporting of company material. Automotive lift trucks of various trade names have been used for moving and handling these skids and pallets.

The operation of those lift trucks was confined to employees of the so-called chauffeurs group, and the operators are classified as chauffeurs or lift truck operators. The rate of pay applicable to such positions is the regular chauffeur's rate which was, at the time of this dispute, \$15.1120 per day.

Among the lift truck operator positions which were in effect for many years was Position #429, the duties of which were to operate the Ross Lift Truck, which is a fork lift, while moving skids and pallets in connection with the handling and transporting of material in and around the main storeroom building. The machine was also used when stock piling material and loading and unloading trucks, etc.

OPINION OF BOARD: Claimants were used to operate a Yale Worksaver and were paid storehelpers and laborers rates. They contend they should have been paid the rate of a chauffeur.

On May 7, 1954 Chauffeurs Position #429, assigned to the performance of lift truck duties in the main storeroom was abolished. At the time Position #429 was abolished, the operator was using Ross Lift Truck #1412.

On October 14, 1954 Carrier was using a number of hand operated devices to lift and transport materials in and about its main storeroom at Milwaukee, Wisconsin more particularly described as follows:

Automatic Transporter
Lewis-Sheppard Handy Hoister
Barrett Hand Pallet Lift Truck
Yale Hand Skid Lifter

Pictures of these devices are in evidence as well as pictures of the Yale Worksaver, the device of which the use of said device is here in dispute.

On October 14, 1954 Carrier put into use a new machine known as the Yale Worksaver. This Yale Worksaver was used in the same work as the hand operated machines but was propelled in a different manner. The operator pushed a button and guided it with a handle while walking. The hand operated machines were propelled by push and pull. The operator of the Yale Workman did the same work as the operators of the hand operated machines and no other.

The Ross Lift Truck was operated by a chauffeur who rode on the truck and guided it by a handle. This Ross Lift Truck was used not only to lift, transport and stack material but it was used extensively in connection with the loading and unloading of freight cars. It could be operated into and out of cars. Its speed was limited only to the requirements of safety. The Yale Worksaver was limited in speed, limited to use in the storeroom, and was of a different construction than the truck operated by the chauffeur. In every detail the Worksaver is similar to the hand operated machine except that the improvement on it makes it easier for the operator to operate.

An improvement in a machine does not make a new or different operation and does not call for the establishment of a new position. Change to a power mower for cutting weeds (Award 4756), improvement in a bolt tightening machine (Award 4536), change to power from hand operation of a rail laying device (Award 4430) are examples of improvements to machines such as the improvement we have here.

Placing this Worksaver in use in the storeroom did not violate the Agreement.

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

That the Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois this 1st day of December, 1960.