

Award No. 5606

Docket No. MW-5623

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Francis J. Robertson, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

ILLINOIS CENTRAL RAILROAD COMPANY

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

(1) The Carrier violated the effective agreement when they failed to compensate Earl Rose, Dave Knight and L. D. Knight at the Machinist Helper's rate of pay for eight (8) pro rata hours and two (2) hours penalty time each, while assisting in the repairing of Locomotive 1336 at West Yard, Kentucky, on February 21, 1950;

(2) Earl Rose, Dave Knight, and L. D. Knight be paid the difference between what they received at the section laborers' rate of pay and what they should have received at the Machinist Helper's rate of pay for services referred to in part (1) of this claim.

EMPLOYEES' STATEMENT OF FACTS: On February 21, 1950, Engine No. 1336 suffered an engine failure. The left main journal was broken and had to be stripped of rods. Two of the driving tires also had to be removed before the engine could be moved to a terminal point for repairs.

The Carrier assigned a Machinist and a Machinist Helper to perform the required work. In addition, Section Laborers Earl Rose, Dave Knight, and L. D. Knight were assigned to assist them.

These Section Laborers loaded the Mechanic's tools on a motor car and hauled them to and from the scene of the engine failure. In addition, they assisted the Machinist and his Helper to the extent of loading the side rods and engine tires on the tender of the engine. They also assisted in jacking up and blocking the engine and in taking off the side rods and tires.

Ten (10) hours time was consumed by each of the Section Laborers engaged in this work. For this service, they were compensated at the Section Laborer's straight time rate of pay for eight (8) hours, and at the Section Laborer's punitive rate of pay for two (2) hours.

The Employees have contended that the Section Laborers should have been compensated at the Machinist Helper's rate of pay for services performed. Claim was declined.

The agreement in effect between the two parties to this dispute dated

load, unload and transport material, tools or equipment. On this Division laborers represented by each of these crafts were compensated at rate of \$1.16 per hour on claim date. This, however, does not classify the work or the employes as a helper of any particular craft and entitle them to a higher rate of pay for such common or manual labor. Claim that section laborers should be paid machinist helper's rate for transporting material or tools when the same work is performed by laborers represented by other crafts at the same rate of pay is unreasonable, unsound, and untenable under the applicable rules on this property as those rules have been considered, understood and recognized both by shop craft employes represented by System Federation No. 99, the section laborers represented by the Brotherhood of Maintenance of Way Employes, and laborers represented by the International Brotherhood of Firemen and Oilers, Roundhouse and Shop Laborers and Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employes.

Investigation of this dispute developed that the only service performed by the claimants was that of loading and unloading tools, equipment and dismantled parts as distinguished from work customarily performed by machinists and helpers. Assuming, but not admitting, that the claimant voluntarily assisted the machinist and his helper in the removing of the side rods and tires from the locomotive, there is still no valid basis for the claim because after the parts were disconnected, it could not have conceivably taken the five men at this location in excess of the four hours specified in Rule 51 to perform this work. It will be noted that Rule 51 provides that work of a higher classification must be performed for four hours or more on any day before a higher rate of pay is applicable. Inasmuch as this claim pertains to work such as that performed by laborers at the laborer's rate of pay represented by the International Brotherhood of Firemen and Oilers, Roundhouse and Shop Laborers, the Brotherhood of Railway and Steamship Clerks, or the Brotherhood of Maintenance of Way Employes, it is routine manual work not specifically defined in the shop craft agreement that can be performed by section laborers.

The claim should, accordingly, be denied.

All data submitted in support of the Carrier's position have been presented to the Employes in correspondence or discussion in conference and made a part of the question in dispute.

OPINION OF BOARD: February 21, 1950, an engine broke down at West Yard, Kentucky. Carrier sent a machinist and machinist helper from Central City about 25 miles distant to remove some rods and driving tires before the engine could be moved in train. Because the place where the engine broke down was inaccessible by truck, it was necessary to transport the tools and equipment of the machinist and his helper by motor car and trailer. The Claimants assisted in the loading and unloading of these tools, in the loading and unloading of driving tires, loaded rods on back of tank of engine and helped place jacks under engine. Claim is made by the Employes for the machinist's helper's rate of pay. Carrier contends that the work was solely laborer's work and, therefore, the claim should be denied.

There are a number of awards of this Board concerning the Composite Service Rule to be found in many Maintenance of Way Agreements. In Award 4795 we had occasion to consider the application of a rule similar in effect to Rule 51 of the instant Agreement. The principles therein outlined are equally applicable to a determination of this claim. Here the work performed by the Claimants was so integrated and complementary to the work of the journeyman machinist and his helper in accomplishing the task of dismantling part of the engine and preparing it for movement in train that it is a most reasonable conclusion that they were engaged in helper's work. The fact that much of the work was strictly in the common labor category is not fatal to the claim. As we pointed out in Award 4795 a certain amount of unskilled work is required in the performance of any helper's duties. On the whole record it is apparent that the Claimants were engaged for more

than four hours in assisting the machinist. Consequently the time element in the rule is satisfied.

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 Carrier violated the Agreement.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Acting Secretary

Dated at Chicago, Illinois, this 14th day of January, 1952.