

Referee Nicholas H. Zumas

PARTIES Railroad Yardmasters of America

TO

DISPUTE: The Pittsburgh & Lake Erie Railroad Company

STATEMENT OF CLAIM: Claim and request of Railroad Yardmasters of America that:

Claim for Yardmasters P. B. Majors, C. L. McLaughlin, H. H. Livingston and H. C. Livingston, Jr. and all other yardmasters of the Monessen-Newell General Yard District as they might be adversely affected on account the Carrier violated the Yardmaster's Agreement by abolishing second trick, Monessen Yard, and by assigning a substantial part of that position to another employe to be performed on overtime. (Planned overtime)

OPINION OF BOARD: Effective December 4, 1968, due to a decline in business at Carrier's Monessen Yard, the second trick yardmaster assignment was abolished (along with the second trick switching crew). From then on all yard work at Monessen Yard was performed by the first trick yard crew under the supervision of the first trick yardmaster. Apparently there were no objections by the representatives of either Organization.

As a result of a merger between Wheeling Steel and Pittsburgh Steel, the work at Monessen Yard increased and it was necessary to work the first trick yard crew and first trick yardmaster on an overtime basis.

Several conferences were held between representatives of Carrier and the Yardmasters' Organization in an effort to restore the second trick yardmaster position. Carrier refused contending that in its judgment, business had not reached a point to justify the restoration of second trick operations.

On July 9, 1974 the Organization filed claim for each unassigned yardmaster for one day each beginning May 18, 1974 for the work at Monessen Yard, second trick. Even though the claim was filed approximately five and one-half years after the second trick was abolished, the May 18, 1974 date was used in order to comply with the 60 day retroactive limitations on a continuing claim. The second trick yard crew and second trick yardmaster positions were restored on October 21, 1974, hence the claim herein is for a period of approximately five months. It is undisputed that the overtime worked by the first trick yardmaster averaged about four and one-half hours per day during this claim period, and it is further undisputed that none of the yardmaster duties were performed by employes outside the yardmaster craft.

It is clear at the outset that under the circumstances, Carrier had a right to abolish the second trick position. There are no restrictions under the Agreement between the parties of Carrier's managerial prerogative in this regard. Carrier's decision in this regard was apparently based on a decline in business.

It follows that unless there restrictions in the Agreement between the parties, Carrier has the concomitant prerogative of determining when the abolished position may be restored.

Additionally, there is nothing in the Agreement that prevents the Carrier from requiring a yardmaster to work overtime. In sum, the Organization has failed to show that Carrier, under the facts and circumstances of this dispute, violated any particular rule of the Agreement.

FINDINGS:

The Fourth Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

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

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

The parties to said dispute waived right of appearance at hearing, but were granted privilege of appearing before the Division with Referee sitting as a member thereof, to present oral argument.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Fourth Division

ATTEST: Executive Secretary
National Railroad Adjustment
Board

By: Raney J. Deaver
Assistant Executive Secretary

Dated at Chicago, Illinois, this 11th day of December 1975