

Award No. 3733

Docket No. 3619

2-CRI&P-EW-'61

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Howard A. Johnson when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 6, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. — C. I. O.
(Electrical Workers)**

CHICAGO, ROCK ISLAND & PACIFIC RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: 1. That under the current agreement the Carrier improperly contracted out the rewinding of 16 traction motor armatures and six stators for engine cooling fans during the period August 20 to October 17, 1956, to be performed by employees of contractors not subject to the current agreement.

2. That, accordingly, the Carrier be ordered to compensate the Claimants who were assigned to this class of work, at penalty rate, for the number of hours required to perform the above mentioned work according to electric shop records.

EMPLOYEES' STATEMENT OF FACTS: The Chicago, Rock Island & Pacific Railroad Company, hereinafter referred to as the carrier, employes regular assigned forces in their electrical repair shop at Silvis, Illinois, to perform, among other duties, the work set out in Part 1 of the claim above.

The carrier sent 16 traction motor armatures to contractors whose employes are not covered by the current agreement, for rewinding and received 16 rewound armatures in return.

Six Type I 666 stators for engine cooling fans to be rewound and received six rewound stators in return.

This dispute has been handled with all carrier officials designated to handle such disputes, all of whom have declined to make adjustments satisfactory to the employes. The agreement effective October 16, 1948 as subsequently amended is controlling.

POSITION OF EMPLOYEES: It is submitted that the foregoing statement of dispute is adequately supported by the terms of the aforementioned controlling agreement made in good faith between the carrier and System Federation No. 6 in pursuance of the amended Railway Labor Act, because:

modernized, upgraded, and warranted armatures and stators rather than attempt to repair or rebuild worn and antiquated ones in kind which would not give us the advantage of remanufactured, modernized, converted and warranted equipment.

As previously stated, the receipt of the remanufactured, modernized, improved, upgraded and warranted armatures and stators received on unit exchange purchase orders for older equipment bears more resemblance to the purchase of new ones than to the maintenance and rebuilding of the old.

We submit without relinquishing our position as above, that, even if claim had merit, which we deny, there is no showing of loss or damage to any individual. It is also our position, as upheld by this and other Divisions of the Adjustment Board, that there can be no penalty, much less at time and one-half rate, for work not performed.

This same question and same type of case from this property has been before your Board on previous occasions for hearing in Award Nos. 3228, 3229, 3230, 3231, 3232 and 3233 (Referee Ferguson) and 3269 (Referee Hornbeck), all of which were rendered in favor of this carrier. Further, Awards 2377, 2922, 3158, 3184 and 3185 have also upheld carriers in similar cases.

On basis of the facts and circumstances recited in the foregoing, we contend there was no violation of the employees' agreement.

We respectfully request your Board to deny this claim.

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

The carrier or carriers and the employe or 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.

Parties to said dispute were given due notice of hearing thereon.

This docket presents the same questions as were raised in Award No. 3731 and necessitates the same conclusion.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 6th day of April, 1961.

LABOR MEMBERS DISSENT TO AWARDS NOS. 3731, 3732 and 3733.

In the findings of the majority in Award 3731 they recognize that electricians' work was performed on these traction motor armatures and cooling fan stators.

The electricians' Classification of Work Rule No. 101 of the current agreement reads in part as follows:

"Electricians work shall consist of maintaining, repairing, rebuilding, inspecting and installing the electric wiring of all . . . and . . . winding armatures, fields, magnet coils, rotors, stators, transformers and starting compensators; . . . and all other work generally recognized as electricians' work."

The work of rewinding armatures and stators comes within and is subject to the provisions of the above rule and has been performed by this carrier's electricians. (See Award 1943 of this Division.) Further, under date of August 4, 1948, the scope rule of the current agreement was changed to prevent the assignment of work to other than employees covered by this agreement and reads in part as follows:

"It is understood that this agreement shall apply to those who perform the work specified in this agreement in the Maint. of Equip. Depts. and in other departments of this railroad . . . and is to prohibit the carrier from hereafter unilaterally assigning the work specified in this agreement to other than employees covered by this agreement . . ."

When the carrier assigned this electricians' work to other than employees covered by this agreement, they violated said agreement.

Therefore, the majority's award is in error and we are constrained to dissent.

/s/ Edward W. Wiesner

/s/ James B. Zink

/s/ R. W. Blake

/s/ Charles E. Goodlin

/s/ T. E. Losey