



Award No. 5691

Docket No. 5539

2-B&O-EW '69

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

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

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 30, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L.—C. I. O.
(Electrical Workers)**

THE BALTIMORE AND OHIO RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That the Baltimore and Ohio Railroad Company violated the current agreement by assigning other than electrical communications workers to perform communication electrical workers work at the Carrier's "D" office over the weekend of May 29-30, 1965.
2. That accordingly the Carrier be ordered to compensate Telephone Maintainer C. H. Cramer for four (4) hours pay at the applicable pro rata electrician's rate for work which he should have been called upon to perform.

EMPLOYEES' STATEMENT OF FACTS: Telephone Maintainer C. H. Cramer, hereinafter referred to as the claimant, holds system seniority in the Baltimore and Ohio Railroad Company's Communications' Department as such, maintaining headquarters at Carriers' Connellsville, Pennsylvania Terminal Station housing "D" office.

On the weekend of May 29 and 30, 1965, Operator at "D" office made repairs to an amplifier on the Operators' desk by deactivating and removing material from an amplifier on the service test board. A formal grievance and time claim was filed with Communication Superintendent G. W. Kearney under date of June 18, 1965, declined July 12, 1965, subsequently handled on appeal up to and including the highest officer of the Carrier designated to handle such claim, all of whom declined to make satisfactory adjustment.

The Agreement negotiated in conference July 1, 1921, revised September 1, 1926, reprinted May 1, 1940 and November 1, 1952 as subsequently amended is controlling.

POSITION OF EMPLOYEES: The employees hold that Rule 29 of the controlling Shop Crafts' Agreement as amended, reads in pertinent part:

"None but mechanics or apprentices regularly employed as such shall do mechanic's work as per special rules of each craft."

It is a routine function which anyone could well perform. To hold that the carrier must call a skilled employee who might often be a considerable distance away to replace an electric light bulb of ordinary type, was never contemplated by the Scope rule. If it should be so construed, we would be well on our way towards the creation of a contractual absurdity by interpretation."

In Award 2223 (Second Division) the following holdings:

"The record further shows that the work involved in this dispute has been performed by employees of many crafts for many years without complaint by the electricians. We think the practice has been to have this work performed as incidental work of several crafts and that it is not the exclusive work of electricians."

In Award 2031 (Second Division) the following holdings:

"The work of plugging or unplugging music cables is not of such nature as to require any degree of skill or special knowledge. This simple task of connecting or disconnecting music cables is not contemplated as being the exclusive work of electricians or electronic technicians, either by specific language in the agreement or by reasonable interpretation thereof."

One basic issue in this case is a jurisdictional dispute regarding division of work between telephone maintainers and wire chiefs. Nonetheless, over the years by rule, tradition, custom, and practice, the work at dispute and issue in this case, has been performed by wire chiefs. It has been done so without protest from the direction of the IBEW Organization.

There is no valid claim coming here from an employee under the scope of the Electrician's Special Rules. The Carrier submits that the claim in this case is wholly without merit.

The Carrier respectfully requests that this Division so rule and that the claim in its entirety be denied.

(Exhibits Not Reproduced)

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.

The replacement of a readily accessible, plug-in, electronic vacuum tube, proves to be the basis for a claim that an employee, not under the Electrical Workers' Agreement, "made repairs to an amplifier on the Operators' desk by deactivating and removing material from an amplifier on the service tsst board."¹

¹ Employes' ex parte submission, p. 2.

The characteristics of electronic vacuum tubes vary with their application and use. A voltage problem was not attendant upon the replacement of the tube in question. The amplifier was not worked on mechanically.

The Carrier has interjected the contention that a Wire Chief was properly used to do the claimed work, thus presenting a jurisdictional question involving a third party notice that the dispute was pending before this Division. The third party's response to said notice does not raise a claim to the work, but does interpose the objection that this Division does not have the authority to invoke its jurisdiction to handle disputes between the Carrier and the Transportation-Communication Employees Union arising out of the Carrier's Agreement with that Organization covering rates of pay, rules and working conditions.

The objection is good, but does not divest this Division of its own jurisdiction over the parties to this dispute and the agreement which is the subject matter of this dispute.

Accordingly, the submissions in this docket have been duly examined and considered.

The Board finds, in connection with the dispute over which it has jurisdiction, a fatal variance between the allegations in support of the time and the facts of record.

A W A R D

Claim (1) is dismissed without precedent or prejudice;

Claim (2) denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 30th day of April, 1969.