



Award No. 6266

Docket No. 6109

2-B&O-MA-'72

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Irving R. Shapiro when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 30, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Machinists)**

THE BALTIMORE AND OHIO RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That the Carrier violated the Agreement when they assigned Electrician Bernard F. McGann to operate a Fork Lift truck at the Cumberland Diesel Shop on December 20, 1969.
2. That Machinist Helper B. H. Dorsey be compensated at eight (8) hours pro rata rate for the aforesaid violation.

EMPLOYEES' STATEMENT OF FACTS: Machinist Helper B. H. Dorsey, hereinafter referred to as the claimant, is employed by the Baltimore and Ohio Railroad Company, hereinafter referred to as the carrier at the Cumberland Diesel Shop in Cumberland, Maryland. He occupies one of the regularly bulletined Fork Lift operating positions at this point.

The claimant's assignment is one of five such positions at the Cumberland Diesel Shop all occupied by Machinist Helpers.

Despite these incontrovertible facts the carrier on December 20, 1969, arbitrarily assigned Electrician B. F. McGann to operate the Fork Lift truck. Mr. McGann at the time was engaged in the task of operating Fork Lift truck, which was used to lower and raise motors and other equipment to a crane that was approximately 35 feet high, (motor weight approximately 2000 pounds). The lowering and raising of this equipment was done by block and fall, with ropes attached to the Fork Lift which would be operated backwards or forwards to raise and lower the equipment. Positions of Fork Lift operators are never bulletined to the Electrician Craft at Cumberland shop nor have employees of that Craft ever previously performed duties of that nature. Electrician McGann operated the Fork Lift truck on the day in question for a period of approximately 4 hours.

A claim was filed on December 22, 1969 by the Local Committee with the claimant's supervisor, Mr. W. R. James. Subsequently, on August 3, 1970, a

contained in Second Division Award 2747 involving a jurisdictional matter between Electricians and Sheet Metal Workers and is void of any application to the factual situation here involved.

The Employees have brought this claim to your Board and it is incumbent upon them to prove their case. The rule cited, as well as the awards of the Adjustment Board cited in the handling of the case on the property fail miserably to support the Employees claim and Carrier, therefore, asks that the claim be denied in its entirety.

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 employees 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 waived right of appearance at hearing thereon.

Petitioner failed to establish with probative evidence that operation of a fork-lift truck was, under the terms of the Controlling Agreement, exclusively work of Machinist helpers. The mere fact that certain employes in said Helpers' Category are bulletined with the title "Fork-lift," does not create the exclusivity necessary to support the claim.

On December 20, 1969, a regularly assigned Electrician was assigned to replace a main drive motor on an overhead crane. To hoist the motor into place, the Electrician used rope and a sheave block. He availed himself of an idle fork-lift truck to provide power to pull the rope and accomplish the hoisting of the motor. Thus, the fork-lift truck was used as a tool for the fulfilling of the Electrician's work, and not an operation. Petitioner did not set forth that use of a fork-lift truck in such manner and such purpose has regularly and historically been limited to Machinist Helpers or that it was "* * * work generally recognized as helpers' work," pursuant to Rule 59 of the Controlling Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois this 20th day of March 1972.

Keenan Printing Co., Chicago, Ill.

Printed in U.S.A.