

Award No. 337
Docket No. 361
2-DL&W-EW-'39

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 78, RAILWAY EMPLOYES'
DEPARTMENT, A. F. OF L. (ELECTRICAL WORKERS)

THE DELAWARE, LACKAWANNA AND WESTERN
RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES: That new job of leading electrician, created in the Buffalo District, as of January 1, 1938, should be bulletined in accordance with Rule 13 of the Maintenance of Way and Structures Department Agreement, effective December 3, 1935.

EMPLOYES' STATEMENT OF FACTS: That prior to and subsequent to December 3, 1935, the Buffalo District was comprised of five (5) electricians, one leading electrician, and one division electrical foreman, making a total of six electricians under the foreman's supervision. The duties of the electricians were to install and maintain the electrical equipment on the Buffalo, Syracuse, and Utica Divisions. On August 23, 1937, the territory of the Division Electrical Foreman E. J. Kane was extended to include the Scranton Division, thereby supervising employes at the Scranton electric shop and the Buffalo electric shop, known as the Scranton seniority district and the Buffalo seniority district and separate from each other, which precluded his daily personal supervision of work, and prevented his being present continuously with camp car, as was previously done. On January 1, 1938, a new job of leading electrician was created on the camp car and assigned to Electrician John Salley, shown as number 4 on the seniority list (employes' Exhibit J and L). The position created was not bulletined in accordance with Rule 13 of the agreement, effective December 3, 1935, reading as follows:

"FILLING NEW JOBS OR VACANCIES

Rule 13. When new jobs are created or vacancies occur in the respective crafts, the oldest employes in point of service shall, if sufficient ability is shown by trial, be given preference in filling such new jobs or any vacancies that may be desirable to them. All vacancies or new jobs created will be bulletined.

Bulletins must be posted five (5) days before vacancies are filled permanently. Employes desiring to avail themselves of this rule will make application to the official in charge and a copy of the application will be given to the Local Chairman.

* * * "

to create any new jobs by this rule, and it is evident from any fair interpretation of this Rule 42 that such an assignment of a working mechanic as leadman is not a new job which must be bulletined in accordance with Rule 13 before such an assignment may be made.

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.

The parties to said dispute waived right of appearance at hearing thereon.

Rule 42 of the current agreement permits the carrier to assign a leadman in small gangs to direct the work of other mechanics and provides for a five cent (5¢) differential rate above the established rate of the craft.

Rule 13 provides the manner in which the assignment shall be made when new jobs are created.

AWARD

The position of leading electrician created in the Buffalo District January 1, 1938, shall be bulletined in accordance with the provisions of Rule 13.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 24th day of May, 1939.