Award No. 1574
Docket No. 1470
2-CUT-EW-'52

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

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

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 150, RAILWAY EMPLOYES' DEPARTMENT, A. F. OF L. (ELECTRICAL WORKERS)

THE CINCINNATI UNION TERMINAL COMPANY

DISPUTE: CLAIM OF EMPLOYES: That under the current agreement, particularly Rule 13, the carrier is improperly applying this rule when they refused to properly designate and describe duties of jobs or vacancies when bulletined subsequent to April 15, 1950 and accordingly the carrier be ordered to restore all these positions to the status in effect immediately prior to the aforesaid date.

JOINT STATEMENT OF FACTS: The Cincinnati Union Terminal Company began operation in March, 1933, and from that date until June 6, 1946, the electrician's and electrician helper's positions were bulletined showing hours of duty, rate of pay and location where position would work and include equipment of all railroads.

Effective June 6, 1946, first bulletin was issued showing hours of duty, rate of pay, location and on what railroad equipment position would inspect and make necessary repairs. Letter symbol was used such as "E" for C.&O. Ry. and "P" for P RR.

Effective April 15, 1950, and all subsequent bulletins thereafter the letter symbols designating the railroad equipment on which position would work has been omitted.

POSITION OF EMPLOYES: It is submitted that the pertinent part of Rule 13 of the controlling agreement reading:

> "When new jobs are created or vacancies occur in the respective crafts . . . . all vacancies or new jobs created will be bulletined."

provides that all new positions or vacancies be bulletined in a manner that will identify the new position or vacancy in every respect to enable an employe coming within the terms of the agreement to exercise seniority which interpretation was understood and jointly applied after the agreement effective July 15, 1945 was signed until April 15, 1950, when the carrier unilaterally changed the joint understanding and application of this

The carrier submits that it has conclusively established that it has complied with the agreement in every respect in the instant case and for the above reasons, respectfully requests that the claim be denied.

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 were given due notice of hearing thereon.

From March 1933, through June 5, 1946, the positions of electricians and electrician helpers in the carrier's coachyard were bulletined by the carrier to show rates of pay, hours of work and location of work. Under this system a position might specialize in working on the equipment of one railroad, but in terms of the bulletin the incumbent was expected to work on the cars of any railroad entering the terminal. A numeral symbol was used to designate the equipment on which most of a position's work would be performed.

Effective June 6, 1946 through April 14, 1950, after oral agreement between the carrier and the general chairman, the bulletins carried also a letter symbol to indicate which railroad's equipment would be mainly involved in the work of a given position.

Effective April 15, 1950, after consultation with but not after agreement by the employes, the carrier omitted the letter symbol from the bulletin, alleging that the use of letters had helped to make employes reluctant to leave the equipment of their specialty when circumstances made it necessary for them to move temporarily to the cars of other railroads.

The issue before us here is whether the carrier had the right—under Rule 13 on bulletining and filling vacancies, under related relevant provisions of the agreement, and in the light of the oral agreement of 1946—to take the above-mentioned unilateral action.

We think not. A prime objective of bulletining positions is to enable employes to exercise their seniority rights in respect to positions that they consider desirable. In order to know whether positions are desirable, employes must be given sufficient information about the positions when the latter are bulletined. Whether or not a letter symbol is needed here as a vitally necessary part of required information is a question of fact whose resolution is not clear from the record. We think that the organization failed to sustain its burden of proof that the letter symbol was of such moment.

But this failure does not order our finding in this case. It is clear that in 1946 the parties agreed it would be helpful to the employes to add a letter symbol to the job designation and information. That this agreement was oral rather than written does not seem material. The parties concurred on an action that not only interpreted Rule 13 but also in effect added something to it. Because this interpretation and addition was jointly made, it may not now be abrogated or modified by the action of either party separately. In the light of this conclusion, the fact that the carrier used no letter symbol from 1933 to 1946 and that this system may have operated satisfactorily to either or both parties during that period is not significant.

We think the claim must be sustained, and we order the carrier to restore the letter symbol in its bulletining of the positions involved in the instant case.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 4th day of November, 1952.