

Award No. 1722
Docket No. 1658
2-LT-USWA, CIO-'53

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

PARTIES TO DISPUTE:

UNITED STEEL WORKERS OF AMERICA, C.I.O.

LAKE TERMINAL RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: This is a claim for eight (8) hours pay for Electrician Ben Rozsos, because of Yardmaster Wallace re-wiring desk light at No. 6 Scales on the 3 to 11 turn, April 26th, 1953.

EMPLOYEES' STATEMENT OF FACTS: The facts are as stated above, and no denial has been made by the company. In a letter addressed to M. A. Melia, Union Staff Representative, dated June 12th, 1953, the company wrote as follows: "Our investigation of this case discloses that Mr. Rozsos was given an emergency call on account of the trouble which was experienced at No. 6 Scales, which consumed approximately one hour of his time. Under the Schedule Agreement, Mr. Rozsos was allowed four hours pay at the time and one half rate for the call. Assuming that Mr. Wallace did re-wire the desk light in question, and since Mr. Rozsos, the senior electrician, was given the call and reported for duty, there is no basis for the claim as presented by Mr. Rozsos."

POSITION OF EMPLOYEES: The union's position is that Mr. Wallace had no right to re-wire the desk light, and he knew it. By so doing, he was in violation of Article XIII, Section 2, Rule 1, which reads as follows: "Employees in the Mechanical Department shall consist of mechanic, apprentices, helpers and laborers, and only mechanics and apprentices will be permitted to do mechanics work or operations."

The company, in supporting Mr. Wallace's action is in violation of Paragraph 4 (definitions), which reads: "Supervisor: Any individual employee of the Company, engaged directly or indirectly in the capacity of supervising and directing the working forces, and who does no manual work except in emergencies or for the purpose of demonstration."

The company has not claimed that either of these two contingencies were present.

Therefore, definite proof has been established that Mr. Wallace and the company are in violation of the agreement. Should this honorable Board decide that a violation of the agreement was made by Mr. Wallace and the

company, the company, under the terms of Award No. 1369—Docket No. M.C.-1268-60, a penalty must be imposed which is a minimum of one day for each violation.

The union is seriously disturbed about the fact that the company should wish to return this question to this honorable Board. By so doing, the company is seeking to justify the clear violation of the agreement attributed to Mr. Wallace.

The company has of course full jurisdiction over its supervisory forces, and an order by it to Mr. Wallace to cease performing the work of mechanics and carmen would assure continuance of good industrial relations, as outlined in the Purpose of the Agreement.

Therefore, we ask this honorable Board to rule that the Lake Terminal Railroad and Mr. Wallace were in violation of the agreement, and that a penalty of one day's pay be assessed against the company.

CARRIER'S STATEMENT OF FACTS: Assistant Trainmaster Wallace who is in charge of the transportation department of The Lake Terminal Railroad Company on the second turn on April 26, 1953 stopped in at No. 6 Scales and repaired the desk light in the Scale Building. At the time the repairs were made to the desk light the claimant had been given an emergency call in connection with trouble experienced at No. 6 Scales. The claimant was allowed four hours at the rate of time and one-half for the call.

POSITION OF CARRIER: Since Mr. Rozsos was called and reported for duty and allowed four hours pay at the rate of time and one-half for the call, the carrier contends there is no basis for the claim. This was merely a case of a supervisor passing through an office and discovering a faulty light fixture which he attempted to fix and since an electrician (the claimant) had been given an emergency call and allowed four hours for the call at the rate of time and one-half, it is the carrier's opinion the claim is not justified. It was necessary for the claimant to go to No. 4 Seamless Mill where the fuse box for No. 6 Scales is located and to the best of his knowledge Mr. Wallace believes the claimant was at the fuse box when Mr. Wallace discovered the faulty fixture. The claimant was on duty and under pay as a result of the emergency call.

It is, therefore, respectfully submitted that the claim be denied and the carrier requests that the Board so decide.

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.

The work of rewiring the portable desk light at No. 6 Scales was mechanic's work under the current agreement. The claimant had been called to correct electrical trouble at No. 6 Scales and was in the vicinity of No. 6 Scales at the time the alleged violation occurred. The claimant was properly compensated for the call.

The record does not disclose that the Carrier's representative assigned the Assistant Trainmaster to perform the work in question, therefore, without establishing a precedent, the claim for compensation is dismissed.

AWARD

Claim disposed of in accordance with the above findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 23rd day of November 1953.