

Award No. 1796

Docket No. 1623

2-PULL-EW-'54

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee Adolph E. Wenke when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 122, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (Electrical Workers)**

THE PULLMAN COMPANY

DISPUTE: CLAIM OF EMPLOYEES: 1. That under the current agreement the Carrier violated Rule 15 when they assigned Electrician H. C. Roberts to fill temporarily the place of supervisors during the period of June 17 to September 16, 1952 and did not pay him accordingly.

2. That accordingly the Carrier be ordered to compensate Electrician H. C. Roberts the difference in pay from what they did pay him and what he should have earned in accordance with Rule 15 during this assignment.

EMPLOYEES' STATEMENT OF FACTS: Electrician H. C. Roberts, hereinafter referred to as the claimant, is employed as an electrician with relief days of Monday and Tuesday and regular bulletined hours 9:00 A. M. to 5:30 P. M.

The carrier assigned the claimant to fill temporarily the place of Assistant Foreman J. E. O'Brien from June 16 to July 8, 1952 inclusive with Sunday and Monday off, working him from 7:30 A. M. to 5:00 P. M.

The carrier assigned the claimant to fill temporarily the place of Assistant Foreman R. A. Hille from July 9 to July 26, 1952 inclusive with Thursday and Friday off, working him on Sunday and Monday 7:30 A. M. to 5:00 P. M., Tuesday, Wednesday and Saturday 8:30 A. M. to 6:00 P. M.

The carrier assigned the claimant to fill temporarily the place of Assistant Foreman E. D. Hunt from July 27 to August 14, 1952 inclusive with Friday and Saturday off, working him from 8:30 A. M. to 6:00 P. M. and on August 6, 1952 from 8:30 A. M. to 7:30 P. M.

The carrier assigned the claimant to fill temporarily the place of Assistant Foreman J. C. Foote from August 15 to September 11, 1952 inclusive with Tuesday and Wednesday off, working him from 8:30 A. M. to 6:00 P. M.

The carrier assigned the claimant to fill temporarily the place of Assistant Foreman R. A. Hille from September 13 to September 15, 1952 inclusive, working him from 7:30 A. M. to 5:00 P. M.

zation is attempting to misconstrue the rules of the electrical workers' agreement which are applicable to this dispute in such manner as to make it appear that any electrician, regardless of whether he holds supervisory seniority, must be paid the hourly differential.

CONCLUSION

The company has shown that there has been no violation of Rule 15 of the electrical workers' agreement in the manner in which Roberts was recalled from furlough in 1952 to fill supervisory positions in the Cincinnati District and compensated as a supervisor during the period in question. Further, the company has shown that Rule 44 of the electrical workers' agreement does not negate the company's position in this dispute in that it contemplates that electrical workers shall be promoted into supervisory positions. Finally, the company has shown that Rule 14, paragraph (b), of the A.R.S.A. agreement confirms the correctness of the company's position in this case.

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.

Electrical Workers of System Federation No. 122 contend the Company violated Rule 15 of their effective agreement in paying Electrician H. C. Roberts while using him in a supervisory capacity.

Rule 15 provides:

"Filling Supervisory Positions Temporarily. Should an electrician be assigned to fill temporarily the place of a supervisor, he shall receive 12 cents per hour over and above the minimum rate paid electricians for the time so engaged—straight time rate for straight time hours and overtime rate for overtime hours."

Claimant was an electrician in the Cincinnati District. Immediately prior to June 16, 1952, he was working as an electrician and had seniority as such. Claimant also had seniority as a supervisor, being No. 56 on the roster of supervisors dated February 1, 1952 for the Eastern-Southeastern Region (Northern Section) with a seniority date of February 1, 1945. When he was furloughed as a supervisor on November 1, 1951, he returned to the ranks of electricians. In this regard Rule 44 of the parties' agreement provides:

"Employees Considered for Promotion. Employees covered by this Agreement shall be considered for promotion to supervisory positions, selection to be made in accordance with seniority and qualifications.

Employees promoted to supervisory or official positions with The Pullman Company shall retain and continue to accumulate seniority in the position and repair shop, district or agency from which promoted."

Rule 15 is a pay rule and there is nothing mandatory about it. Should the company use an electrician to temporarily fill the place of a supervisor it would be obligated to pay him in accordance with the terms thereof. It does not compel the company to use an electrician as such for this purpose.

Rule 44 contemplates that employes covered thereby can have seniority rights in a supervisory class as well as an electrician and be entitled to the benefits of both.

The company created a position of Assistant Foreman for vacation relief purposes. Claimant was notified thereof and accepted assignment thereto. He served in that capacity from June 17, 1952 to September 15, 1952, when the position was discontinued. He then returned to his status as an electrician. The company did not assign him to fill this temporary position as an electrician but recalled him as a furloughed supervisory employe. That it had a right to do. Whether or not all his rights as a recalled furloughed supervisory employe, including pay, were complied with is a matter not within our jurisdiction to decide.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 30th day of June, 1954.