

Award No. 1797

Docket No. 1624

2-PULLEW-'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 M. Mancinelli to fill temporarily the place of supervisors and did not pay him accordingly.

2. That accordingly the Carrier be ordered to compensate Electrician M. Mancinelli the difference in pay from what they did pay him and what he should have earned in accordance with Rule 15 during these assignments.

EMPLOYEES' STATEMENT OF FACTS: Electrician M. Mancinelli, hereinafter referred to as the claimant, is employed by The Pullman Company at Pittsburgh, Pennsylvania with relief days of Saturday and Sunday and regular bulletined hours 8:30 A. M. to 5:00 P. M.

The carrier assigned the claimant to fill temporarily the place of Assistant Foreman W. J. Fulton from June 16 to July 4, 1952 inclusive, with Saturday and Sunday off, working him from 8:00 A. M. to 5:30 P. M.

The carrier assigned the claimant to fill temporarily the place of Assistant Foreman A. Small from July 5 to July 25, 1952 inclusive, with Saturday and Sunday off, working him from 8:00 A. M. to 5:30 P. M.

The carrier assigned the claimant to fill temporarily the place of Assistant Foreman J. W. Brown from July 26 to August 12, 1952 inclusive, with Monday and Tuesday off, working him from 7:00 A. M. to 4:30 P. M.

The carrier assigned the claimant to fill temporarily the place of Assistant Foreman J. W. Workman from August 13 to September 1, 1952 inclusive with Friday and Saturday off, working him from 8:00 A. M. to 5:30 P. M.

The carrier assigned the claimant to fill temporarily the place of Assistant Foreman H. Auer starting October 8, 1952 until the return of Mr. Auer from leave of absence.

The agreement effective July 1, 1948, as subsequently amended, is controlling.

Simply stated, the rule upon which the organization relies provides that an electrician temporarily assigned to fill the place of a supervisor 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. The provisions of the rule are applicable to an electrician who does not possess supervisory seniority and who is assigned temporarily to fill the place of a supervisor. Rule 15 does not apply to an electrician who has been promoted to a supervisory position as contemplated by "**Rule 44. Employees Considered for Promotion.**" The rule plainly contemplates that the electrician who is temporarily assigned to fill the place of a supervisor shall not be considered as in the position of a supervisor. As an electrician who does not possess supervisory seniority, he is subject to the 12 cents per hour differential paid electricians for temporarily taking the place of a supervisor. The provisions of Rule 15 plainly are not applicable to Mancinelli for the periods in question in 1952 since Mancinelli was a furloughed supervisor and was recalled from furlough to fill a supervisory position and not to fill temporarily the place of a supervisor. It is obvious that the organization 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 Mancinelli was recalled from furlough in 1952 to fill supervisory positions in the Pittsburgh District and compensated as a supervisor during the periods 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 M. Mancinelli while using him in a supervisory capacity.

Claimant was an electrician in the Pittsburgh district. Immediately prior to June 16, 1952 he was working as an electrician and had seniority as such. He also had seniority as a supervisor, being No. 68 on the Roster of Supervisors dated February 1, 1952 for the Eastern Southeastern Region (Northern Section) with a seniority date of April 1, 1948. When he was furloughed as a supervisor on November 3, 1950 he returned to the ranks of electricians. This was permissible under Rule 44 of the parties' agreement.

The company created a position of Assistant Foreman for vacation relief purposes and recalled claimant as a furloughed supervisor and assigned him thereto. He served in that capacity from June 16 to September 1, 1952 when the Assistant Foreman position was discontinued. He then returned to the status of an electrician. On October 8, 1952 the company again recalled

claimant for the same purpose and used him in the capacity of an Assistant Foreman until December 4, 1952.

The foregoing presents the same question as was involved in Docket 1623 on which our Award 1796 is based. What we held in that award is controlling here.

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.