

Award No. 2138
Docket No. 2008
2-AT&SF-EW-'56

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. 97, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (Electrical Workers)**

**THE ATCHISON, TOPEKA & SANTA FE
RAILWAY COMPANY (Western Lines)**

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current Agreement an axle light and air conditioning inspector was improperly assigned to perform radio electrical work on radio equipped Caboose No. 2265 on November 2, 1954.

2. That accordingly the Carrier be ordered to additionally compensate Electrician J. J. Eberwein in the amount of four (4) hours pay at the time and one-half rate.

EMPLOYEES' STATEMENT OF FACTS: In the mechanical department at Clovis, the carrier has employed two classes of electrical workers; one class which consists of one man, holds his electrician's seniority at Chicago, Illinois, and is regularly assigned at Clovis as an axle lighting and air conditioning inspector paid the monthly rate. The other class of electrical workers are mechanical department electricians, apprentices and helpers, paid on an hourly basis with seniority at Clovis.

Mechanical Department Electrician J. J. Eberwein, hereinafter referred to as the claimant, is an hourly rated employe regularly employed by the carrier and assigned to maintain electrical equipment in the shops, yards and on rolling stock at Clovis; his seniority is confined to Clovis.

Tuesday, November 2, 1954, the carrier assigned axle light and air conditioning inspector to perform radio electrical work on Caboose Number 2265.

This dispute has been handled with the carrier officials designated by the company to handle appeals, with the result that they have declined to adjust same.

The agreement effective August 1, 1945, as amended, is controlling.

The word "cars" as used in Item 3 is not restricted or limited to any particular type or class of car and is too plain and precise to require or permit an interpretation that would lead to a separation of assignment or jurisdiction of work as between "passenger cars", "caboose cars", or other types of cars for any specific classification of mechanical department electricians. The carrier and the employes agree that work involved in the maintenance of primary power supply on passenger cars is work that may be properly performed by axle light and air conditioning inspectors. Carrier asserts that if axle light inspectors may properly be used to perform such work on passenger cars the carrier has the right to use the same class of employe to perform similar work on other cars as well, as Item 3 of Section B, of Memorandum of Agreement No. 8 makes no distinction whatever as between maintenance of primary power supply on passenger cars and other types of cars.

The various Divisions of the National Railroad Adjustment Board have consistently recognized and held that the burden of proof of an agreement violation is upon the employes. Carrier asserts the employes have not submitted any proof that the scope rule or any other rule pertaining to the electrical workers' craft was violated when the carrier assigned Axle Light and Air Conditioning Inspector L. C. Zirkle to the work of overhauling the axle-driven generator, applying new generator belt and taking gravity readings on batteries on Caboose Car 2265, and therefore respectfully requests that the employes' claim in this dispute 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.

It is contended that under the rules of the parties' effective agreement an axle light and air conditioning inspector was improperly assigned to perform radio electrical work on carrier's radio equipped Caboose No. 2265 on November 2, 1954. Because thereof it is requested that carrier be required to pay Electrician J. J. Eberwein four (4) hours at time and one-half rate.

On Tuesday, November 2, 1954, carrier had L. C. Zirkle perform the work of overhauling an axle driven generator, apply a new generator belt and take gravity readings on batteries on its Caboose Car 2265 in its yards at Clovis, New Mexico. The work was performed by Zirkle during the assigned hours of his regular tour of duty and took about three hours to perform.

Zirkle was then a regularly assigned monthly rated axle light and air conditioning inspector with seniority, as such, at Clovis but also holding seniority as an electrician at Chicago, the point from which he was promoted to inspector.

Claimant is an hourly rated electrician in carrier's Mechanical Department at Clovis with seniority at that point and assigned to work in the shops there and entitled to do the type of work here involved. See B. 3 of Memorandum of Agreement No. 8, effective June 1, 1953 and Rules 29 a and 92 of the parties' agreement effective August 1, 1945.

It is contended that what Zirkle did was radio electrical work, and therefore not within the scope of Zirkle's assignment, since the generator overhauled was used solely to supply working and storage electricity to operate radio electrical equipment in the caboose which was furnished with radio transmission and receiving equipment.

It is carrier's contention that the work of an axle light and air conditioning inspector consists of servicing and repairing all electrical equipment, not only on passenger cars but on cabooses, refrigerator cars, etc., on which electricity is used for any purpose that is generated by means of the axles as a source of power.

First, it should be made clear that while Zirkle retained seniority as an electrician at the point where he held such when promoted to an inspector (here Chicago), such seniority did not give him the right to do the work of an electrician at Clovis where he only held seniority as an inspector. The seniority he retained as an electrician at Chicago gave him the right to return there, if displaced as an inspector, and exercise it within the rules of the parties' effective agreement. The scope of the work he could perform at Clovis as an inspector is limited to the duties implied by the language used to describe his job classification.

We come then to the question of what work is impliedly covered by the word classification of the inspector's job. We think the words "axle light (or lighting) and air conditioning," used to describe the inspector's job, relate to the generation of electricity by means of axles as a source of power when the electricity so generated is to be immediately used for lighting and air conditioning, or stored in batteries to be later used for those purposes, and that an inspector so assigned may do all things which his inspection discloses are necessary to keep the equipment used for that purpose in working condition. We do not think such work is necessarily limited to passenger cars in service but find it includes all rolling stock of the carrier when the axles are used for that purpose regardless of whether they are in immediate use or not. There is nothing in the language used to describe the job to so limit its application and, in the absence thereof, it is not our right to do so.

Since the electricity generated on the caboose was used for purposes other than that of lighting or air conditioning we find it was not within the scope of the work covered by Zirkle's job of inspector. Carrier therefore improperly assigned Zirkle to perform it. In view thereof we find the claim here made should be allowed.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 19th day of June, 1956.