

Award No. 2439
Docket No. 2433
2-NP-EW-'57

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular member and in addition Referee D. Emmett Ferguson when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 7, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L.-C. I. O. (Electrical Workers)**

NORTHERN PACIFIC RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current agreement other than Electrical Workers were improperly assigned to perform electrical work on motive power equipment on May 14 and 15, 1955.

2. That accordingly the Carrier be ordered to compensate Electrician O. C. Olson for four (4) hours at the straight time rate on each of these dates.

EMPLOYEES' STATEMENT OF FACTS: O. C. Olson, hereinafter referred as the claimant, was employed by the Northern Pacific Railway Company, hereinafter referred to as the carrier, as an electrician at Rices Point roundhouse, Duluth, Minnesota. Claimant was regularly assigned by bulletin to perform electrical work at this point. Claimant was assigned to the first shift, Monday through Friday, rest days Saturday and Sunday.

The claimant was available for calls on the second and third shifts and on his assigned rest days.

On Saturday, May 14, 1955, Machinist C. S. Shelerud was assigned to make repairs to the headlight wiring of Diesel Electric Motor Car No. B-40.

On Sunday, May 15, 1955, Machinists A. R. Kwan and C. M. Drinkwine were assigned to remove and install a set of brushes on the fuel pump transfer motor on Diesel-Electric Locomotive No. 714.

The dispute was handled with carrier officials designated to handle such affairs who all declined to adjust the matter.

The agreement effective February 1, 1945, as it has been subsequently amended, is controlling.

house on Saturdays and Sundays; that on Saturday, May 14, 1955, a machinist consumed not to exceed ten minutes in performing work described in Rule 92; and that on Sunday, May 15, 1955, the night roundhouse foreman and a machinist consumed not to exceed twenty minutes in performing work classified in Rule 92. The rules involved in this dispute show that Rule 92 classifies the work of electricians; that Rule 33 modifies Rule 92 to the extent that foremen may in the exercise of their duties perform mechanic's work and that a machinist may perform necessary running repair work described in Rule 92, subject to certain conditions precedent; and that the conditions precedent to the performance of electricians' work on Saturday, May 14, 1955 and on Sunday, May 15, 1955 were satisfied. Therefore, the application of Rule 33 to the facts in this case is fatal to the claim of Mr. Olson. Hence this claim should be denied in its entirety.

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 this dispute were given due notice of hearing thereon.

This dispute arises over which rule should be applied to the agreed facts, which show an electrician was available at a point, but not on the shift, when a non-electrician did some electrical work.

The employes depend upon Rule 92 (a) (Electrician's Work) and upon Article VII of the August 21, 1954 Agreement which permits mechanics to perform any necessary work "at points where there is not sufficient work to justify employing a mechanic of each craft." (N.B. No mention is made of "on shift".)

The carrier acknowledges its acceptance of Article VII, but now argues that Article VII did not entirely supersede Rule 33 of the agreement of February 1, 1945 which permitted mechanics to perform "necessary running repair work"—"at points or on shifts where no mechanics of the craft are employed."

Significance must be attached to the final paragraph of Article VII, which establishes its effective date "except on such carriers as may elect to preserve existing rules * * * and so notify * * *."

The carrier herein made no such election; it accepted Article VII and Rule 33 was not preserved. We are bound by the language of Article VII which makes no mention of shifts and we decline to insert a word in the agreement which experienced negotiators and rule makers did not include.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 28th day of May, 1957.