

Award No. 2654

Docket No. 2558

2-WAB-EW-'57

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 13, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Electrical Workers)**

WABASH RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current agreement Electrician E. S. Schneider, who was called to work overtime on the 11:00 P.M. to 7:00 A.M. shift in the Decatur Diesel Shop, was improperly used to operate electrically driven crane on November 23, 1955.

2. That accordingly the Carrier be ordered to additionally compensate Electric-Crane Operator K. Roller in the amount of six (6) hours at time and one-half.

EMPLOYEES' STATEMENT OF FACTS: Craneman K. Roller (hereinafter referred to as the claimant) is employed by the carrier in the Decatur locomotive department with hours of 7:00 A.M. to 12:00 Noon - 12:30 P.M. to 3:30 P.M. Electrician E. S. Schneider was employed in the Decatur locomotive department (diesel shop) with hours of 3:00 P.M. to 11:00 P.M. Electrician E. S. Schneider was called to work overtime on November 23, 1955, 11:00 P.M. to 7:00 A.M. shift in addition to the regularly assigned force of electricians who reported and worked on the third shift on November 23, 1955. Shortly after Schneider reported for work he was ordered by the foreman to operate the electrically driven crane in the diesel shop making lifts in connection with repairs to diesel engines. He operated the crane for a period of six (6) hours during his tour of duty on November 23, 1955.

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

The agreement effective June 1, 1939, as subsequently amended, is controlling.

POSITION OF EMPLOYEES: It is submitted that the claimant should have been called to operate the electrically driven crane in the diesel shop on November 23, 1955, on the 11:00 P.M. to 7:00 A.M. shift instead of calling

duties only when electricians were making adjustments or repairs to a crane, when it might be necessary to make test moves with that crane.

Past practice cannot set aside or modify the clear provisions of Rule 104, the fifth paragraph of which provides:

"Electricians may be used to operate electrically driven cranes in connection with their other duties."

The provision is permissible and by the terms thereof electricians may be used to operate electrically driven cranes in connection with their other duties. The fact the local officers at Decatur have at times seen fit to call out a regular crane operator does not set aside or modify the rule.

Regardless of anything else, the fact remains that the action of the carrier in using Electrician E. S. Schneider to operate an electrically driven crane in connection with his other duties on November 23, 1955 was fully justified and permissible under provisions of applicable rules.

The committee's interpretation of Rule 104 to the effect that electricians may be used to operate electrically driven cranes only when they are engaged in making repairs to such cranes, is not consistent with or supported by the language of the rule. If the parties to the agreement had intended such a restricted meaning they would have employed language to that effect.

The contentions of the committee should be dismissed and the claim 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.

This claim is in all respects identical to that disposed of by our Award No. 2623, involving the same parties. Hence it governs the disposition of this claim.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

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