

Award No. 3272

Docket No. 2843

2-IC-EW-'59

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee James P. Carey, Jr., when award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 99, RAILWAY EMPLOYEES' DEPARTMENT, A. F. of L.—C. I. O. (Electrical Workers)

ILLINOIS CENTRAL RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

That under the current agreement the Carrier improperly assigned other than electrical workers of the Maintenance of Equipment Department to repair light fixtures and drop cords and other lights in Power House and Paint Shop at Burnside Shops on August 8, 9 and 17, 1956, thereby damaging electrical workers of the Maintenance of Equipment Department in the amount of sixty-nine man hours of work and that, accordingly, the Carrier be ordered to discontinue such practice.

That the following regularly employed employees of the Carrier of the Maintenance of Equipment Department be compensated at the applicable time and one-half rate for each man hour worked which they were entitled to perform under the applicable rules of the current agreement.

W. E. Taylor

J. Gaudio

W. S. McLaren

G. R. Nordquist

E. Bracken

R. Ziegner

EMPLOYEES' STATEMENT OF FACTS: The carrier assigned Maintenance of Way electricians covered by the Section B Agreement to perform electrical work inside of buildings on the grounds at Burnside Shops, Chicago, Illinois. This work was done at the power house and paint shop at Burnside Shops.

Claimant employees of the Maintenance of Equipment Department are employed by the carrier and hold seniority as such.

The work performed on each of the claim dates involved in this dispute was completed by one electrician and one electrician helper. The employees' request to compensate two electricians on each of the claim dates is at variance with the claim in that helpers and electricians are on separate rosters. Even if the claim were valid, which carrier denies, no electrician would be entitled to compensation because a helper was used.

The work of replacing burned out light bulbs does not accrue exclusively to any craft. In Award 2932, Third Division, the Board stated:

"The replacement of a burned out electric light bulb in a train order signal requires no special skill. It is just as commonplace as the replacing of a defective electric light bulb in one's home. It is not recognized as the attribute of any particular trade or profession. It is a routine function which anyone could well perform."

The work of maintaining light fixtures and drop light cords is a part of building appurtenances as distinguished from equipment which are permanently installed and are a part of fixed property. The assignment of such maintenance to Maintenance of Way and Structures Department Electricians was proper and not a violation of the agreement.

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 employees 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.

Parties to said dispute were given due notice of hearing thereon.

It is claimed that in August 1956, carrier assigned Maintenance of Way electricians on the Chicago Terminal to repair light fixtures, drop light cords and other lights in the Power House and Paint Shop at Burnside Shops, thereby depriving electricians employed in the Maintenance of Equipment Department of the work. Compensation is sought at penalty rates.

The question of dividing the work at Burnside Shops between electricians employed in the Maintenance of Way and Structures Department and Maintenance of Equipment Department has been a fruitful source of controversy in recent years which has produced seven awards of this Division since early 1955. One of those (Award No. 2745) was a dismissal award at employees' request and we do not regard it as material to the instant dispute. The others will be referred to later in this award.

The essence of the dispute submitted in this docket is the effect of an amendment made to a supplemental agreement dated July 1, 1940 between the carrier and System Federation No. 99, pursuant to Rule 124(a) of the Agreement A concerning Maintenance of Equipment Department electricians. The amendment was effected in 1951 pursuant to Section 6 of the Railway Labor Act, as amended.

The carrier and System Federation No. 99, executed two agreements concerning rules, rates of pay and working conditions, effective April 1,

1935, and subsequently amended. The agreement entitled Section A, applies to workmen, including electrical workers, employed in the Maintenance of Equipment Department. The agreement entitled Section B is applicable to those employed in the Maintenance of Way and Structures Department (including all electrical workers in that department on the Chicago Terminal Division, Telegraph and Telephone Department electrical workers and Water Service Repairmen and Helpers on the System). The Burnside Shops lie within the territorial limits of the Chicago Terminal Division.

Rule 117 of Section A Agreement defines electrician's work in the Maintenance of Equipment Department, and Rule 54 of Section B Agreement defines electrician's work in the Maintenance of Way and Structures Department. With some exceptions not relevant to this dispute, the classification of electricians' work in each department is substantially the same.

The applicable seniority provision of Section B agreement involving the Maintenance of Way and Structures Department electricians is set forth in Rule 32 as follows:

"All employes covered by this Agreement working under the jurisdiction of the Electrical Supervisor, Chicago Terminal Division, shall come under four seniority groups: * * * one normally on general electrical maintenance with headquarters at Central Station; * * *"

The seniority provision of Section A Agreement concerning Maintenance of Equipment electricians is Rule 124 (a) which provides:

"Point seniority among electrical workers will be considered as provided for in supplemental understanding between the management and committee which is made a part of this agreement".

The seniority districts as established in 1931 continued unchanged from April 1, 1935 (the effective date of Section A and Section B agreements) until 1940.

Under date of July 1, 1940, the carrier and the federation entered into a memorandum of agreement with reference to several seniority districts for the Maintenance of Equipment Department electricians on the Chicago Terminal. One of these is District No. 3, Burnside Shop. It was agreed that the seniority of electrical workers in the Maintenance of Equipment Department at Burnside Shop shall be as follows effective July 1, 1940:

"All electrical work inside of Shop grounds excepting catenary work, also excepting the high voltage power lines within the Shop grounds running to Transformer House. All electrical work in connection with the Maintenance of Multiple Unit suburban cars and locomotives".

After July 1, 1940, therefore, Maintenance of Way electricians were to perform general electrical maintenance work on the Chicago Terminal Division, but in that portion of the terminal division lying inside of the Burnside Shop grounds all electrical work was to be performed by Maintenance of Equipment electricians with the above specified exceptions.

As a general rule all electrical maintenance work on buildings and structures in the Chicago Terminal has been under the jurisdiction of the

Maintenance of Way and Structures Department. Electrical maintenance work on rolling stock and equipment has been the responsibility of the Maintenance of Equipment Department. The division of work between Maintenance of Equipment electricians and Maintenance of Way and Structures electricians on the Chicago Terminal, insofar as inside and outside wiring at Burnside Shop is concerned, has been determined by the respective seniority districts. It is evident that from July 1, 1940, inside and outside wiring and most all of the other electrical work at Burnside Shop in and out of buildings, with certain exceptions, was within the seniority district of Maintenance of Equipment electricians by virtue of the July 1, 1940 agreement. At other points on the terminal the same kind of work belonged to Maintenance of Way electricians.

In an effort to ease what it considered to be an increasingly unsatisfactory and complicated situation resulting from above-mentioned anomalous arrangement, the carrier, in February 1951, proposed to the federation that the contractual language concerning District No. 3 Burnside Shop seniority, be amended to provide as follows:

"All electrical work inside of shop grounds, excepting catenary structure work, high voltage power lines within the shop grounds running to transformer house, and other electrical work not under jurisdiction of the Maintenance of Equipment Department. All electrical work in connection with the maintenance of multiple unit suburban cars and locomotives".

Except for re-arrangement of the language of the July 1, 1940 provisions, the proposed amendment added the phrase "* * * and other electrical work not under jurisdiction of the Maintenance of Equipment Department". The reasoning underlying the proposed amendment seems to have been that by excluding from Seniority District 3 electrical work not under the jurisdiction of the Maintenance of Equipment Department the carrier could assign work to Maintenance of Way electricians work which had therefore for several years belonged to Maintenance of Equipment electricians at Burnside Shop. The sufficiency of the proposed amendment to achieve that objective is open to serious question. We held in Award No. 1970 that the proposed amendment became effective in March 1951. In Awards No. 2276 and 2614 we again recognized the effectiveness of the amendment. When the instant dispute arose in 1956, Seniority District 3, Burnside Shop, provided that "other electrical work not under jurisdiction of the Maintenance of Equipment Department" was excluded. It should be observed, that what is or is not electrical work under the jurisdiction of the Maintenance of Equipment Department at Burnside Shop is not determined by the language of the seniority provision mentioned. That must be found in other contractual provisions, if any, or by recourse to established practice on the property. We are not aware of nor has our attention been directed to any contractual provision on this point. In looking to established practice we consider our Awards No. 2276, 2614, 2848 and 2849.

Award No. 2276 involved the claim of several electrical workers in the Maintenance of Equipment Department at Burnside Shop that the carrier had improperly assigned the installation of electrical fixtures in the Diesel Shop to an independent contractor whose employes performed the work on various days in 1952. The carrier contended that "it has always been the responsibility and the jurisdiction of the maintenance of way and structures department on the Chicago Terminal to install and maintain all electrical lines and appurtenances permanently anchored or fastened to buildings" and

that any prior "apparent conflict of jurisdiction between the electrical workers of the maintenance of way and structures and seniority district 3 of the maintenance of equipment department electrical workers, as that seniority district existed in the July 1, 1940 agreement was removed when seniority district 3 was changed." We sustained the claim and construed the 1951 change in seniority district as follows:

"We think the change made by the carrier in seniority district No. 3 had the effect, insofar as the Burnside Diesel Shop is concerned, of dividing this work between these two groups of electricians as follows: that inside of the shop to electricians in the Maintenance of Equipment Department and that outside thereof to the electricians in the Maintenance of Way and Structures Department, the breaking or separation point being at the switching point where the lines enter the shop."

The carrier disagrees with this interpretation of the change in seniority district 3 and says it is at variance with the language used to divide the work between seniority district No. 3 and the maintenance of way seniority district, and that it practically reinstates the conditions which necessitated the change in 1951.

In the light of surrounding facts and circumstances before and after the 1951 amendment, it seems proper to observe that some if not all of the subsequent disputes might have been avoided if more definite language had been employed in the amendment. The carrier has apparently overlooked or misapprehended the exact basis for our interpretation of the 1951 agreement. The criticized conclusion in Award No. 2276 is based on the following paragraph therein:

"As stated by carrier in its submission, 'it has always been the responsibility and the jurisdiction of the Maintenance of Way and Structures Department on the Chicago Terminal to install and maintain all electrical lines and appurtenances permanently anchored or fastened to buildings' and 'to install main services with high voltage or low voltage to the service switch or service breaker within the buildings'. This is further evidenced by two letters, dated May 12, 1953 and June 9, 1953 from E. H. Hallmann to E. L. Derington, general chairman of the International Brotherhood of Electrical Workers. And, as set forth in a statement signed by thirty-two (32) electricians employed at the Burnside Shops. electrical workers employed at Burnside Shops performed all maintenance, repair and installation work on all electrical fixtures and equipment in the Burnside Shops up to the time of the work herein involved".

The above quotation from the carrier's submission is found in a sworn statement of December 7, 1954 by the supervisor of Electrical Maintenance employed in the Maintenance of Way Department. A close analysis of the verbiage used suggests a distinction between electrical work inside and outside of buildings. The letter dated May 12, 1953 from E. H. Hallmann, Manager of Personnel to the general chairman, explained the need for replacing lighting panels handling overhead lights and other shop circuits in the machine shop side of the Burnside Diesel Shops, due to the press of diesel electrical work and the shortage of maintenance of equipment electricians, and asked if the general chairman had any objections to having it done by maintenance of way electrical forces. Mr. Hallmann's letter of June 9, 1953 referred to the same subject and continued:

"We ask your concurrence in having these panels replaced by Chicago Terminal Maintenance of Way electrical forces because in our opinion the current work of the diesel shop electricians cannot be set aside to permit their doing the work. We would be glad to have this installation performed by the Burnside electricians, because it is our desire to adhere to the terms of our working agreement, and if you know of any electricians we can hire to do the work, we will be glad to consider their applications. However, we see no prospects that the diesel shop electricians will be able to perform this work in addition to their regular work. Since you represent the maintenance of way electricians as well as the mechanical department electricians, and there would be no work lost to your craft, we will appreciate your giving further consideration to concurring in the performance of this work by the Chicago Terminal maintenance of way electricians".

From the foregoing we think it evident that our interpretation of the 1951 amendment of Seniority District 3 at Burnside Shop is reasonably consistent with the carrier's admissions and communications in 1953 and 1954. In his letters of 1953, Mr. Hallmann did not consider the 1951 amendment to be as far reaching in removing some of the electrical work from the Maintenance of Equipment forces as the carrier now contends. It would seem that a Section 6 notice would be required to reach the carrier's desired objective.

In Award No. 2614 we denied a claim of Maintenance of Equipment Department electrical workers that maintenance of way electricians were improperly used to install conduit and a switch in the paint shop at Burnside Shop in October 1951. We nevertheless adhered to the principle enunciated in Award No. 2276 for it will be seen that in Award No. 1970 involving the same dispute, we found that the maintenance of way electricians "did not work past the entrance switch". We have recently in two cases adhered to our findings in Award No. 2276. In Award No. 2848 we sustained a claim of the Maintenance of Equipment electricians that they were entitled to install conduit, junction boxes, switches and wiring for lighting service in the Stores Department at Burnside Shops, and in Award No. 2849 we reached a similar result with respect to installation of switches, conduit, junction boxes and other outlets and all the wiring in the power house at Burnside Shops.

Although our findings in Award No. 2276 are confined to the Burnside diesel shop, we can see no good reason why the principles therein stated should not be applied to other shop buildings of the carrier within the area of the Burnside Shops. We have recently applied them to the Paint Shop in Award No. 2614, to the Stores Department in Award No. 2848, and to the Power House in Award No. 2849.

The instant dispute involves work of repairing light fixtures, drop light cords and other light fixtures in the Power House and Paint Shop at Burnside Shops. All of this work was done by Maintenance of Way electricians inside the shop building, and in line with our findings in Award No. 2276 we hold it was work properly belonging to electrical workers employed in the Maintenance of Equipment Department. The penalty for assigning such work to others than Maintenance of Equipment forces is that the class of employes who lost the work are to be compensated for the amount thereof at the rate applicable thereto, which is at the regular rate of an electrician. The compensation to be allowed for the work performed by Maintenance of

Way and Structures forces is limited, to that performed by electricians and is not applicable to work performed by apprentices or helpers.

AWARD

Claim sustained at the pro rata rate of an electrician as specified.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 24th day of June 1959.