

Award No. 4086

Docket No. 3853

2-MP-EW-'62

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Howard A. Johnson when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 2, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. — C. I. O.
(ELECTRICAL WORKERS)**

MISSOURI PACIFIC RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. The controlling agreement, particularly Rule 26, was violated when Telephone Maintainer Supervisor A. Highfill performed telephone maintainers' work on August 28th, 31st, September 1st, 2nd, 3rd and 4th, 1959.

2. That accordingly, the Missouri Pacific Railroad Company compensate the following named telephone maintainers in the amount of one four (4) hour call on the dates appearing next to their names when Supervisor Highfill performed work belonging to the Electricians' Craft:

Glen Kuhlman — August 28, 1959

K. Hamilton — August 31, 1959

F. H. Lindsey — September 1, 1959

D. E. Ritter — September 2, 1959

C. C. Browning — September 3, 1959

R. I. Clark — September 4, 1959

EMPLOYEES' STATEMENT OF FACTS: The Missouri Pacific Railroad Company, hereinafter referred to as the carrier, maintains a force of telephone maintainers at Kansas City, Missouri, to perform work subscribed to telephone maintainers. However, on August 28th, 31st, September 1st, 2nd, 3rd and 4th, 1959, Telephone Maintainer Supervisor, Mr. A. Highfill, was used to perform work that has been performed by telephone maintainers at Kansas City for many years, namely:

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.

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

Under Rule 26 foremen are not prohibited from performing work in the exercise of their duties. Consequently, in order to establish their improper performance of the work of a craft it must be shown not to have been done in the exercise of their duties.

The first item was a midnight call because of the failure of part of a round-robin system. The work of a supervisor is more than merely supervising the actual work of others; it includes instructing the others what to do, which sometimes necessitates an examination to determine what is necessary, and the best way to do it under the circumstances. That is especially true in a situation like this, where a continuously needed communication system is out of operation. A quick inspection may have shown that the insulator and carbon block were dirty or greasy, and the normal way to learn whether the trouble resulted from that or some other cause would be to wipe them off and put them back. Certainly those acts were part of his job to determine what was wrong, and he would have deserved criticism if he had not performed them. The fact that they actually remedied the trouble does not alter the fact that they were very possibly done in the exercise of his supervisory duties. Finding that the round-robin was thereby restored to service, it would have made no sense to disrupt service further by removing the parts long enough to have Claimant Kuhlman called out to wipe them again and put them back, whether or not he would have received extra pay for the unnecessary service.

The second item was the buzzing of a cable, which requires a man at each end. The circumstances are not shown but it is certainly possible that the man at the other end was a telephone maintainer under his supervision, and that the work was performed in the exercise of his supervisory duties. On the record we cannot conclude that it was not.

The other items involved the splicing of a cable on each of four days; no evidence is submitted concerning the item of September 4; the evidence for each of the other three days consists of a simple written statement, signed by three or four of the Claimants, "that I, the undersigned, noted violation. A. Highfill performing work, splicing cable * * *," with no particulars except the location at which it was done.

In this state of the record this Board is in no position to find that these items of work were not performed in the exercise of the supervisor's duties. If it were, none of the Claimants would have been entitled to a four hour call, as claimed.

Telephone maintainers receive a monthly salary to cover all services rendered, including overtime on the first five days of the work week. All the work in question was done on those days, one item at Midnight and the others at times not stated. Each claimant worked and was paid for the day

to which his part of the claim relates, so that he can have sustained no financial loss. There is no contention that the circumstances were such on any of the six occasions that an additional telephone maintainer would have been necessary if the supervisor had not performed the item of work claimed, and no claim is presented by such other telephone maintainer. The claims must be denied.

AWARD

Claims denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 20th day of November, 1962.