Award No. 4095

Docket No. 3839

2-SLSW-EW-'62

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Charles W. Anrod when the award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 45, RAILWAY EMPLOYES' DEPARTMENT, A. F. OF L. — C. I. O. (ELECTRICAL WORKERS)

ST. LOUIS SOUTHWESTERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYES:

1. That the St. Louis Southwestern Railway Company violated the current agreement when they elected to use outside electricians to perform work on air conditioners at Shreveport, Louisiana, during the period of May 20, 1959.

2. That accordingly the Carrier be ordered to additionally compensate electrician C. E. Harris, Jr., and electrician helper O. A. Smith ten hours (10) each, at their regular rate of pay.

EMPLOYES' STATEMENT OF FACTS: Electrician C. E. Harris, Jr. and Electrician Helper O. A. Smith, hereinafter referred to as the claimants, are regularly employed as such by the St. Louis Southwestern Railway Company, hereinafter referred to as the carrier, and assigned at Pine Bluff, Arkansas.

On May 20, 1959, the claimants were advised by the electrical foreman at Pine Bluff, Arkansas, that they were to go to Shreveport, Louisiana, and make necessary repairs to out of order air conditioning machine, located at S. W. T. office.

After the claimants gathered the necessary material and were preparing to leave, the Foreman told them to wait, for the B&B Supervisor, Mr. E. R. Simmons, was arranging for a local electrical firm at Shreveport, Louisiana, to service the air conditioning machine.

The outside local firm's electricians made the repairs to the air conditioning machine.

The carrier's electrical workers have always performed air conditioning work on this property. This dispute has been handled up to and including

7-2. If, during the time on the road, an employe is relieved from duty and permitted to go to bed for five (5) or more hours, such relief time will not be paid for, provided that in no case shall he be paid for a total of less than eight (8) hours each calendar day, when such irregular service prevents the employe from making his regular daily hours at home station. Where meals and lodgings are not provided by railroad, actual necessary expenses will be allowed.

7-3. Employes will be called as nearly as possible one hour before leaving time, and on their return will deliver tools at point designated.

7-4. If required to leave home station during overtime hours, they will be allowed one hour preparatory time at straight-time rate."

What time they would have required for the trip or for work is not known. Their claim is simply for an arbitrary amount.

This rule provides payment only when a trip is actually made. Instructions to prepare for a trip manifestly did not constitute a trip, and there is no basis for any claim.

Carrier respectfully submits that claim is not supported by the rules and should 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.

Parties to said dispute waived right of appearance at hearing thereon.

The Claimants, Electrician C. E. Harris, Jr., and Electrician Helper O. A. Smith, are employed by the Carrier at Pine Bluff, Arkansas. On May 20, 1959, they were instructed by the Electrical Foreman at Pine Bluff to go to Shreveport, Louisiana, about 185 miles from Pine Bluff, to repair an air conditioning unit in the Carrier's freight office. However, prior to their departure for Shreveport B&B Supervisor E. R. Simmons decided that it was more expedient to have the unit repaired by the local electrical firm at Shreveport which had been servicing it. Simmons cancelled the Claimants' instructions to go to Shreveport and the unit was repaired by the local firm. The Claimants were under pay during regular working hours on the day in question.

They filed a grievance in which they contended that the work performed by the local firm belonged exclusively to them. Each Claimant requested compensation equal to eight hours' travel time plus two hours' working time, or a total of ten hours, at the regular rate of pay. The carrier denied the grievance which is now before us for adjudication.

1. In support of their claim, the Claimants primarily rely on Rule 80 of the applicable labor agreement which contains a detailed job description of the position of electrician. The Rule does not in express terms cover work of

the type here in dispute. It contains, however, a comprehensive provision that "all . . . work generally recognized as electrician's work on this carrier" shall be covered thereby. The Claimants submit that work similar to that here in dispute has generally been so recognized in the past. Contrary thereto, the Carrier asserts that such work has variously been performed by both its electricians and outside contractors at its discretion ever since air conditioning units were installed on its property in 1944. The preponderance of the available evidence amply supports the Carrier's assertion. Specifically, the record discloses that during the period from 1953 to May, 1959, work comparable to that here involved has, at various locations and on numerous occasions, been performed either by the Carrier's electricians or by outside contractors. Moreover, the Carrier's contention that, prior to the grievance at hand, no grievance protesting such assignments was ever filed by the electricians or the Organization (Carrier's submission brief, p. 8) stands uncontroverted. Their failure to submit timely objections to the long-continued and well-known practice can be treated only as concurrence. Under these circumstances, we are unable to find that the work here complained of has generally been recognized as electrician's work within the contemplation of Rule 80. Accordingly, such work did not exclusively belong to the Claimants and the Carrier's action in the instant case did not violate said Rule. See: Awards 1110, 2250, 3015, and 3387 of the Second Division.

2. The Claimants also base their claim on Rule 84 of the labor agreement which reads, as far as pertinent, as follows:

> "Apprentices shall be given an opportunity to learn all branches of the trade. . . . The various classes of work are designed as a guide and will be followed as closely as conditions will permit:
>
> . . . . .
>
> "1560 Hours — Coach lighting and air conditioning . . ."

The flaw in the Claimants' argument is that the clear and unambiguous purpose of Rule 84 is to prescribe proper standards for the technical training of electrician apprentices. The Rule does not bestow any exclusive work rights upon electricians. Hence, Rule 84 does not sustain the instant claim.

3. Since we are satisfied that the claim in question is without merit for the above stated reasons, it becomes unnecessary to rule on the Carrier's additional defense that the labor agreement only covers work performed in the Motive Power Department but not in the Operating Department of which the freight office is an integral part. We refrain, therefore, from expressing any opinion on the validity of this defense.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 5th day of December, 1962.