

Award No. 4859

Docket No. 4784

2-MP-EW-'66

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Levi M. Hall when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 2, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Electrical Workers)**

MISSOURI PACIFIC COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That the controlling Agreement, particularly Rules 3(a), 13(a), 25(a) and (c), 26(a), 106(a) and 107(a), was violated when the Missouri Pacific Railroad Company improperly assigned Assistant Electronic Engineer Clyde W. Graham to perform work specifically contracted and recognized as Electricians' work at the Miller Street Freight House, St. Louis, Missouri.

2. That accordingly, the Missouri Pacific Railroad Company compensatae Traveling Electricians J. W. Cannon, L. L. Brundage, R. B. Jones, M. McClymont and A. E. Workman, in the amount of eight (8) hours at the pro rata and sixteen (16) hours at the punitive rate, rotating and dividing compensation equally, beginning August 15, 1963, and to continue until violation is corrected.

EMPLOYEES' STATEMENT OF FACTS: On or about August 12, 1963 Clyde W. Graham was promoted to the position of assistant electronic engineer and placed on monthly salary by the Missouri Pacific Railroad Company, hereinafter referred to as the carrier, and was assigned without benefit of bulletin to work at the Miller Street Freight House, St. Louis, Missouri, a point where qualified electricians are employed.

Mr. Graham's assignment has arbitrarily included work contracted to and specifically belonging to the Electricians' Craft, i.e., he has performed work on limit switches, electric motors and electric motor controls, safety switches, photo-electric controls, wiring and transistorized panel boards, replaced fuses, repaired and adjustment limit switches and other work belonging to the Electricians' Craft.

At the Miller Street Freight House Traveling Electricians J. W. Cannon, L. L. Brundage, R. B. Jones, M. McClymont and A. E. Workman, hereinafter referred to as the Claimants, are employed and were available and should have been called to perform this work. The Claimants are trained and are well quali-

agreement as alleged. We have further shown that there is no basis under the agreement for the monetary claim and your Board has no authority to assess such a penalty. The claim must 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.

It is contended by the Petitioner that Clyde W. Graham, an employe of Carrier, was granted a leave of absence from the Signalmen's Organization before being promoted by the Carrier to the position of Assistant Electrical Engineer and assigned to perform electrical work at the Miller Street Freight House at St. Louis, Missouri, that traveling electricians were available at the time Graham was so employed.

Petitioners' claim is set forth in Employes' Submission, as follows:
"From the foregoing it is evident that the instant case is based on the following indisputable facts:

- "a) Assistant Electronic Engineer Graham is a supervisor;
- "b) The work involved comes under the classification of electricians' work (Rule 107);
- "c) Qualified electricians are employed at the Miller Street Freight House;
- "d) The work in question is electricians' work and when Mr. Graham (Supervisor) performed this work rightfully belonging to the electricians' craft, he then and there violated the agreement and injured the Claimants as set out in the Employes' Claim."

Rule 107(a) of the Agreement provides:

"Electricians' work, including regular and helper apprentices, shall include electrical wiring, maintaining, repairing, rebuilding, inspecting and installing of all generators, switchboards, meters, motors and controls, rheostats and controls, static and rotary transformers, motor generators, electric headlights and headlight generators, electric welding machines, storage batteries (work to be divided between electricians and helpers as may be agreed up on locally), axle lighting equipment, electric lighting fixtures; winding armatures, fields, magnets, coils, rotors, transformers and starting compensators; inside wiring at shops, and all conduit work in connection therewith; steam and electric locomotives, passenger trains and motor cars, electric trucks, telephone equipment and all other work properly recognized as electricians' work."

It is the Carrier's position, in controverting Petitioners' claim that in the year 1963 Carrier installed in the freight house a new system to move cars for handling less than carload freight developed by the General Electric Company and called Direct-O-Matic; that the system is controlled by an electronic computer, the component parts of which are similar to the electronic data computers used by modern industry; that when Direct-O-Matic was installed it was the first of its kind to be installed by this Carrier or by an other Carrier; that the General Electric Company maintained the equipment for a year; that in the meantime, as there was no employee qualified to maintain or operate the electronic equipment, Clyde W. Graham was trained for the position he now holds; that the position he occupies does not fall within the Scope of any Agreement; that as the General Manager stated in a letter addressed to the General Chairman:

"The maintenance of the Direct-O-Matic panel and its components, together with the pulser and code reader, which with certain other units constitute the control circuits, is work which we do not believe is covered by the classification of work rule applicable to electricians and is work which they have never performed, and, * * *, you are not qualified to perform."

The General Manager also indicated that up to the time of the presentation of this Claim there had been no necessity for maintenance work on power circuit work but that in the future there was probably some work which could be done by traveling electricians and that it was the intention of the Carrier to use them as and when necessary.

In rebuttal to Carrier's Claim that the work involved does not fall within Rule 107, Petitioner contends that this in fact is an electrical device and is related to the work contained in Rule 107(a) within the meaning of that portion of the Rule which provides—"and all other work properly recognized as electricians work".

It is not seriously contested but that the control circuits and panel for the Direct-O-Matic system installed have many electronic devices which are not listed in Rule 107. The type of equipment which controls the Direct-O-Matic system is a new type of electronic equipment which has never been maintained by electricians nor included in the Classification of Work rules of electricians.

The maintenance and operation of the equipment presented a new problem to the Carrier. In the exercise of its managerial judgment, Carrier considered that it had no employee qualified to handle the operation and maintenance of the electronic equipment involved. As a consequence thereof, Carrier had one of its employees, Graham, trained for the precise position he was assigned to—Assistant Electrical Engineer. Unless the Petitioner could demonstrate that in the exercise of this prerogative Carrier was arbitrary or capricious, the Claim made in behalf of the electrical employees must fall. The Board feels that the Petitioner has failed to do so.

Certain jurisdictional objections to a consideration of the claim by this Board have been raised by the Carrier but inasmuch as the Claim has been denied on the merits the Board feels is unnecessary to consider them.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 13th day of April, 1966.