

**Award No. 5433**

**Docket No. 5298**

**2-IC-EW-'68**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee Joseph S. Kane 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:**

1. That at Weldon Coach Yard the Carrier is violating our Schedule of Rules governing the working conditions, when the bulletin new jobs or vacancies and fail to fill or abolish these vacancies at the termination of bulletin.

2. That at Weldon Coach Yard the Carrier be compelled to stop the practice of bulletining more jobs than they have employees available to fill.

3. That at Weldon Coach Yard the Carrier be compelled to convert Seven Day Positions into Five or Six Day Positions when all Rest Days cannot be filled with available employees.

4. That the Carrier compensate H. T. McGraw and other Electrical Workers listed on the attachment, at the rate of time and one half.

**EMPLOYEES' STATEMENT OF FACTS:** The Employees whose names appear on the attached list, hereinafter referred to as the Claimants, are employed at Weldon Coach Yard in Chicago, Illinois by the Illinois Central Railroad Company, hereinafter referred to as the Carrier.

The Carrier at Weldon Coach Yard posted a bulletin reading:

"Weldon, February 1, 1965

**BULLETIN**

No. 13

**ALL ELECTRICIANS:—**

Written applications will be received in my office for the next five (5) days, or until 8:00 A. M., February 7, 1965 for the following vacancy.

## SUMMARY AND CONCLUSION

It has been clearly shown that the "dispute" submitted by the Electricians is actually no dispute over interpretation of the Shop Crafts' Agreement. This claim is based solely on the organization's proved misinterpretation of an elementary provision of the Forty Hour Week Agreement — that positions are not to be confused with individual work assignments.

Unfortunately the union has quoted the term position with the term "assignment."

The company has shown that merely by substituting the proper definition of the term in the conditions governing five, six, and seven day positions, the unions' references to various provisions of the Forty Hour Week Agreement becomes meaningless.

It has been shown that the maintenance of relief assignments in no way affects the nature of seven day operations. Most important it has been clearly demonstrated that management has a vested right in determining the conduct of its operations. In seven-day operations management need not work every assignment every day.

The company has further shown that even if the agreement has been violated, the monetary claim could not be sustained. No electrician at Weldon Coach Yard lost compensation by virtue of the blanking of relief assignment R-6, Weldon Coach Yard. Therefore, no electrician would be entitled to penalty pay as claimed.

We ask the Board to sustain the company's position by denying the claim.

(Exhibits Not Reproduced).

**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.

This dispute arose over the following claims:

1. That at Weldon Coach Yard, the carrier is violating our schedule of rules governing the working conditions when they bulletin new jobs or vacancies and fail to fill or abolish vacancies at the termination of bulletin.

2. That at Weldon Coach Yard, the carrier be compelled to stop the practice of bulletining more jobs than they have employes available to fill.

3. That at Weldon Coach Yard, the carrier be compelled to convert seven-day positions into five- or six-day positions when all rest days cannot be filled with available employees.

4. That at Weldon Coach Yard, the carrier compensate H. T. McGraw and other electrical workers, as listed on the attachment, at the rate of time-and-one-half.

The carrier contended that the sole issue presented here is whether or not every regular assignment in a seven-day operation must be worked seven days a week. The Union contended that when the job was blanked on the off-day of the regular incumbent, the job becomes a five-day position, as defined in Rule 1, B-1, and the rest days become Saturday and Sunday.

The Weldon Yard works seven days a week, twenty-four hours a day. Electricians are employed there and work a staggered week to maintain service around the clock seven days a week.

A relief job No. R-6 was bulletined and the occupant relieved jobs No. 22, 23 and 33 from Friday to Tuesday inclusive. Part of the time from December 16, 1963, to April 1, 1965, job No. R-6 was filled for a period of forty-one days. The position was continually being bulletined but rarely occupied, then blanked when no electricians bid on the job.

Thus, while No. R-6 was blanked, the rest days of jobs No. 22, 23 and 33 were not covered by a relief man and worked five days per week with rest days other than Saturday or Sunday.

It was the contention of the claimants that the carrier should fill the rest days of jobs No. 22, 23 and 33 with a relief man, making the rest days Saturday and Sunday. Therefore, the penalty was derived from this failure, as required by Rule 19 of the current agreement. If the relief job had been filled, the rest days of the three jobs in question would have been Saturday and Sunday.

It was further contended by the claimants that as a result of the handling of the jobs in this manner, the positions became five-day positions and Rule 1, B-1 applied, off days, Saturday and Sunday.

An examination of the Rules and facts presented revealed the claimants occupied seven-day positions.

Rule 1, B-3 reads:

"Seven-day Positions —

On positions which have been filled seven days per week any two consecutive days may be the rest days with the presumption in favor of Saturday and Sunday."

The work performed by claimants was performed seven days.

Rule 19 reads:

"When new jobs are created or vacancies occur in the craft, the oldest employe in point of service will be given preference for assign-

ment thereto. All new jobs or vacancies in the craft will be bulletined for five days before being filled permanently, except that jobs or vacancies of less than thirty (30) days duration, need not be bulletined. Employees desiring to avail themselves of this rule will make application to the official in charge and a copy of the application will be given to the local chairman."

This Rule does not require the carrier to do other than bulletin the relief position and if unfilled, by reason of failure to receive bids, blank the position. No violation of this rule is apparent.

The Board is of the opinion that Rule 1, B-3 applies to the facts and circumstances herein and the agreement has not been violated.

#### **AWARD**

Claim denied.

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
By Order of **SECOND DIVISION**

ATTEST: Charles C. McCarthy  
Executive Secretary

Dated at Chicago, Illinois, this 29th day of May 1968.