



**Award No. 5573**

**Docket No. 5377**

**2-C&O-EW-'68**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee George S. Ives when award was rendered.

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**PARTIES TO DISPUTE:**

**SYSTEM FEDERATION NO. 41, RAILWAY EMPLOYES'  
DEPARTMENT, AFL-CIO (Electrical Workers)**

**THE CHESAPEAKE AND OHIO RAILWAY COMPANY  
(Southern Region)**

**DISPUTE: CLAIM OF EMPLOYES:**

1. That the Chesapeake and Ohio Railway Company violated the current agreement when it denied Shop Electricians their contractual rights by assigning telephone linemen of the Communications Department to install conduit in the Reclamation Plant on January 12, 13, 14, 15, 16, 18 and 19, 1965, at Barboursville, West Virginia.

2. That accordingly, the Chesapeake and Ohio Railway Company be ordered to:

- (a) Discontinue such improper assignments.
- (b) Additionally compensate Shop Electricians Earl Lawrence, Roy O. Holbrook, Arthur Brown and Denver C. Cash, in the amount of eighty (80) hours each at pro-rata rate; and Robert White, in the amount of seventy-nine (79) hours at pro-rata rate, the total time required for the telephone linemen to complete this work.

**EMPLOYES' STATEMENT OF FACTS:** Electricians Earl Lawrence, Roy O. Holbrook, Arthur Brown, Denver C. Cash and Robert White, hereinafter referred to as the Claimants, are regularly employed as electricians at the Barboursville Reclamation Plant Shops by the Chesapeake and Ohio Railway Company, hereinafter referred to as the Carrier, and claimants hold seniority at this point.

Under dates of January 12, 13, 14, 15, 16, 18 and 19, 1965, the carrier arbitrarily assigned seven (7) telephone linemen of the Communications Department to run a line of two (2) inch conduit in the Reclamation Plant.

- (7) Any satisfactory intra-craft division of work can only be accomplished by negotiation, which the Employees have refused to do by submitting their ex parte claim to the Board.

The claim is entirely without merit and it 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 were given due notice of hearing thereon.

The essential facts involved in this dispute are not in issue. Petitioner contends that Carrier violated Rule 140 of the controlling agreement on specified dates during the month of January, 1965, when seven (7) telephone linemen of the Communication Department were assigned to cut, thread, fit and install two (2) inch conduit for communication lines between offices and buildings at Carrier's Reclamation Plant in Barboursville, West Virginia, instead of the named claimants, who are regularly employed as Shop Electricians at the Reclamation Plant. Petitioner avers that the disputed work belongs exclusively to Shop Electricians under the applicable language of the Agreement, and seeks additional compensation for the claimants commensurable with the total number of hours required by the linemen to complete the disputed assignment.

Carrier contends that Rule 140 of the effective Agreement does not grant to Shop Electricians the exclusive right to install communication conduit as opposed to conduit for wires carrying electrical energy; that even if the applicable Rule of the Agreement provided a basis for intra-craft division of work, Rule 141 would grant to linemen the right to install communication conduit; and that established practice on a system wide basis as to the installation of conduit for communication purposes supports the disputed assignment of conduit work in this case.

The applicable provisions of the Agreement provide in part as follows:

"RULE 140.

CLASSIFICATION OF ELECTRICIANS

Electricians' work shall consist of maintaining, repairing, rebuilding, inspecting, and installing the electric wiring of

\* \* \* \* \*

13. Inside telegraph and telephone equipment,

\* \* \* \* \*

17. Inside and outside wiring of shops, buildings, yards and structures (except wiring provided for in Rule 141), and all conduit work in connection therewith;

\* \* \* \* \*

22. Cutting, fitting, installing and repairing all conduits, moulding, ducts and cables for the conveying and protecting of wire carrying electrical energy, except passenger car moulding;

\* \* \* \* \*

#### RULE 141.

#### CLASSIFICATION OF LINEMEN, ETC.

- (a) Linemen's work shall consist of

\* \* \* \* \*

maintaining, inspecting and installing third rail and

\* \* \* \* \*

. . . pipe lines or conduits for these cables. . . ."

Petitioner primarily relies on the language of the Agreement to support its position that the disputed work belongs exclusively to Shop Electricians. Analysis of Rule 140 discloses that the preface to the rule is confined to "electric wiring", which the Carrier insists does not include communication lines. Petitioner asserts that "communication wires" carry electric energy within the purview of paragraphs 17 and 22 of Rule 140, and that the installation of conduits to contain such "communication wires" constitutes work to be performed by Shop Electricians at the Barboursville Reclamation Plant to the exclusion of all other employees, despite contrary past practice at other points throughout Carrier's System. The gravamen of Petitioner's claim is that the pertinent language of Rule 140 is clear and unambiguous, which cannot be superseded by conflicting practice.

In the first instance, the record establishes that both Linemen and Shop Electricians are represented by the Petitioner for the purposes of collective bargaining under the same Agreement and both are Members of the Electricians' Craft. The disputed work of installing conduits in this case was an incidental part of Carrier's installation of new circuits supplied by the telephone company at the Reclamation Plant, and the telephone wires were actually installed by employees of the Telephone Company, rather than by Carrier's employees.

The record further reveals that communication employees have made comparable conduit installations at other points throughout Carrier's System where Shop Electricians are employed, and that the dispute at Barboursville, West Virginia is not an isolated case. Thus, the pivotal question for determination is whether the pertinent language of Rule 140 explicitly includes conduit installation in connection with the installation of communication lines as well as general electric wiring, which carries electric energy for the operation of various devices and equipment.

Despite Petitioner's averment that the broad language found in Rule 140 encompasses the installation of all conduits for any wiring which transmits or carries electrical impulses, including communication lines, past practice as well as the provisions of Rule 141 of the applicable Agreement suggest that both classifications, Shop Electricians and Linemen, may install conduit to be used for the protection of telephone lines and cables under varying circumstances. Consequently, we must conclude that the provisions of Rule 140, relied on by Petitioner, are neither clear nor explicit, and that Petitioner has failed to establish through probative evidence that the disputed work is customarily performed by Shop Electricians to the exclusion of all other employees of the Carrier, including communication employees. Therefore, the instant claim will be denied.

#### AWARD

Claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy  
Executive Secretary

Dated at Chicago, Illinois, this 14th day of November, 1968.