



Award No. 5578

Docket No. 5399

2-CB&Q-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.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 95, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Electrical Workers)**

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That, in violation of the current Agreement, the Carrier improperly assigned Division Lineman R. E. Smith to perform the installation work of communications equipment in its Cicero Yards between the period of October 25 and December 10, 1965.

2. That, accordingly, the Carrier be ordered to compensate System Communication Installer, A. E. Meyer for one hundred two (102) hours for the work performed during the above mentioned period by Division Lineman Smith.

EMPLOYEES' STATEMENT OF FACTS: System Communication Installer A. E. Meyer, hereinafter referred to as the claimant, is regularly employed as a Communication Installer, Classification A-2, by the Chicago, Burlington and Quincy Railroad Company, hereinafter referred to as the carrier. The claimant is assigned to an eight hour day, Monday through Friday, and is compensated at a monthly rate with Sunday as the assigned rest day.

During the period between October 25, 1965, and December 10, 1965, the carrier assigned Division Lineman R. E. Smith to the work of installing communication equipment at its Cicero Yards located in Illinois.

The carrier has alleged that work such as in the instant claim has been performed by Division Linemen in the past and that Communication Installer is not the only one allowed to do this work. Carrier states that Division Linemen install wayside telephones, local office equipment, pole top filters, and other types of equipment, but does not cite any provision of the current agreement permitting such assignments.

The carrier has also contended that since the claimant did receive his regular monthly salary for the period involved, it would be impossible to further compensate him even if the claim were valid.

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 fundamental facts involved in this dispute are not in issue. Between October 25th and December 10th, 1965, Carrier assigned a Division Lineman to install four remote controlled radio units at Carrier's Cicero, Illinois Freight Yard. Petitioner contends that Rule 34, paragraph A-2 of the Agreement between the parties was violated because the disputed work was not performed by Equipment Installers.

Petitioner urges that Equipment Installers have an exclusive right to perform the work of installing communication equipment under the precise language of paragraph A-2 of Rule 34, and that no other provision of the applicable Agreement provides for an interchange of such work between the separate classifications of Equipment Installers and Division Linemen.

Carrier urges that Division Linemen are regularly used to install communications equipment as well as Equipment Installers and have made similar installations to those here involved in the past. Moreover, the Carrier contends that Rule 34, paragraph A-2, merely describes the capabilities of an Equipment Installer without delineating the particular duties of said classification and in no way prohibits the continued use of Division Linemen to install equipment.

Rule 34 of the applicable Agreement pertains to linemen and ground men employed in Carrier's telegraph department. Various classifications of linemen are described in Rule 34, including those assigned as Equipment Installers as well as District Linemen, but all are linemen and members of the same craft represented by Petitioner for the purposes of collective bargaining.

Rule 34. A(2) reads as follows:

"An employe in this classification is a lineman assigned as an equipment installer who is capable of building, installing, assembling, dismantling, inspecting, testing, adjusting, repairing, and maintaining telegraph, telephone, teletype and radio apparatus, public address systems, and any other system, apparatus or method used for communication purposes together with the cables, conduits and wires connecting the same."

Rule 34. B(1) merely provides:

"An employe in this classification is a lineman assigned as a district lineman to maintain a district."

Petitioner does not protest the replacement of worn out equipment by District Linemen while maintaining their districts, but only the installation of

new equipment by Division Linemen, which work allegedly belongs exclusively to the Equipment Installer classification.

Carrier has offered unrefuted evidence of particular installations of communication equipment by District Linemen in the past to support its position that the disputed work does not belong exclusively to the Equipment Installer classification within the Electrician's craft. Petitioner asserts that the language of Rule 34 A-2 unequivocally assigns the disputed work exclusively to the Equipment Installer classification and supersedes any conflicting practice.

Analysis of the pertinent language reveals that an employe in this classification is a lineman assigned as an Equipment Installer who possesses certain specific capabilities, but such language does not describe the particular duties to be performed by linemen in this classification nor prohibit other linemen in the same craft from performing installation work. Accordingly, we must conclude that this classification rule is general in nature and that established custom, practice and usage must prevail in this case.

Petitioner has the burden of establishing through competent evidence that linemen classified as Equipment Installers have performed the disputed work in the past to the exclusion of all others. Carrier has denied this assertion and has submitted evidence to support its contention that District linemen also have performed comparable work in the past. Therefore, we find that Petitioner has failed to sustain its burden of proof, and that the instant claim must 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.