Form 1 NATIONAL RAILROAD ADJUSTMENT BOARD Award No. 7482
SECOND DIVISION Docket No. 7344-T
2-BNI-EW-'78

The Second Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

Parties to Dispute: (System Federation No. 7, Railway Employes' Department, A. F. of L. - C I O. (Electrical Workers)
(Burlington Northern Inc.

Dispute: Claim of Employes:

1. That in violation of the current working agreement the Burlington Northern Inc. arbitrarily assigned the operation of cranes at Northtown, Minnesota to employees other than Electrical forces. Claim filed for four (4) hours compensation at pro rata rates, plus an additional $3.00 for each working day starting with date of September 15, 1975 and continuing until adjusted. Claim filed in behalf of Electricians D. J. King, L. C. Forthmiller, J. D. Rasmussen, Jr., and R. G. Kohler, and to be equally divided among them.

2. That accordingly the Carrier be ordered to compensate Claimants for four (4) hours plus the additional $3.00 for each working day starting with September 15, 1975 and continuing until adjusted.

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 Carrier has in operation two 15-ton and one 35-ton traveling overhead cranes at its new diesel maintenance facility at Northtown Yard. The cranes are operated with pushbutton pendant controls from floor level by employes in a variety of crafts. The Organization claims that operation of the cranes should be assigned exclusively to Electricians at Northtown.

The evidence presented by the Organization and the Rules to which it refers do not merit such a finding.

The Organization relies on its Classification of Work Rule, which is Rule 76. The description of duties under Rule 76 does not specifically identify the operation of cranes. The Rule does indeed include, in separate paragraphs, reference to "operators" of 40-ton capacity or over, and electric cranes under 40-ton capacity. Where pertinent, such reference refers to regularly assigned crane operators. In the Carrier's facility, no such regular positions in regard to the three cranes in question have been listed or filled. Rather, the cranes are operated as needed by the various crafts in connection with the specialized work.

Nor has the Organization shown that it operates such cranes on an exclusive basis throughout the Carrier's system. To the contrary, there is evidence of operation of such cranes at many other locations by employes other than electricians. The fact that Electricians are assigned at some locations for the operation of certain types of cranes does not suffice for a claim for exclusive operation of the cranes at issue here.

In addition to and apart from the above, the work of operating the cranes at Northtown is a new operation. No precedent at Northtown is available to guide the parties involved. The position of the International Association of Machinists and Aerospace Workers, as a third party at interest, is well taken in arguing that the Organization must first seek a remedy through Rule 93, which states in part:

> "Any controversy as to craft jurisdiction arising between two or more of the organizations parties to this agreement shall first be settled by the contesting organizations, and existing practices shall be continued without penalty until and when the Carrier has been properly notified and had reasonable opportunity to reach an understanding with the organization involved..."

No evidence of recourse to Rule 93 was presented, so that on this ground the claim is improperly before the Board.

A W A R D

Claim denied and dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By _____
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 24th day of February, 1978.