

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

Parties to Dispute: (Brotherhood Railway Carmen of the United States
(and Canada (Carmen)
(
(Port Authority Trans-Hudson Corporation

Dispute: Claim of Employees:

1. That the Carrier violated the terms of the Controlling Agreement by not advertising a Lead Mechanic's (Car Inspector) job located at Journal Square, Jersey City, N.J.
2. The Carrier be ordered to award the Lead Mechanic's (Car Inspector) job to M. Barry.
3. That accordingly, the Carrier be further ordered to compensate Lead Mechanic (Car Inspector) M. Barry for any wages lost as a result of the improper assignment.

Findings:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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 issue in this dispute is whether Carrier failed to properly bulletin a Lead Mechanic's position in February of 1977. The Bulletin Rule (Article XI, Section 15) provides that new jobs and vacancies shall be bulletined. Additionally, Petitioner contends that in the past when there was a vacancy for a Lead Mechanic there was an informal canvassing of the incumbents and the position would be assigned to the senior Lead Mechanic if he desired it.

Article I Section 1 of the Agreement lists the classifications covered by the Agreement. Section 2 of that Article provides:

"Lead Mechanic - An employee chosen by PATH from one of the mechanic classifications, who will perform work only in the classification from which chosen and may direct employees covered by this agreement."

Carrier points out that the question of selection of Lead Mechanics was determined by Public Law Board No. 1597 in its Award No. 1 (W. M. Edgett, Neutral) which dealt with a related dispute between these same parties. In that award the Board held:

"The selection of the individual to fill the position of Leading Mechanic is reserved by Article I, Section 2 to PATH's sole discretion."

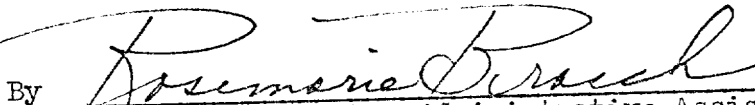
It appears that the parties, in February of 1978, a year following this claim, negotiated a rule which provides, inter alia, that Lead Mechanics' positions must be bulletined. From this action, it is clear that the parties themselves had construed the rule applicable to this dispute (the Bulletin Rule) to exclude Lead Mechanics. Hence, we must conclude that the applicable rule, Article XI, Section 15 did not require that Lead Mechanics' positions be bulletined. Since the claim is lacking rule support, it must be denied.

A W A R D

Claim denied.

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 16th day of May, 1979.