

The Second Division consisted of the regular members and in addition Referee Ralph W. Yarborough when award was rendered.

Parties to Dispute: { System Federation No. 42, Railway Employees'
 { Department, A. F. of L. - C. I. O.
 { (Electrical Workers)
 { Seaboard Coast Line Railroad Company

Dispute: Claim of Employees:

1. That the Seaboard Coast Line Railroad Company violated the current working agreement, particularly Rules 93, 26(a), 14 and Appendix "Q" when Carrier Supervisor performed work on Seaboard Coast Line Electrical Workers on September 15, 1975, in particularly the duties of applying standby electrical service to the power plant car and applying service to the passenger cars (business type) at West Jacksonville, Florida.
2. That accordingly, the Carrier be ordered to compensate Electrical Workers D. G. Dodson and B. E. Going seven and one-half (7½) hours at their punitive rate of pay to be divided equally between each man.

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.

On Monday, September 15, 1975, at the West-Jacksonville, Shops, Jacksonville, Florida, at about 7 P.M., a power failure occurred and it was necessary to start the emergency engine on the power car to furnish standby power on Office Car 310. These passenger train cars are now used as office cars, and for transportation of executives of the Carrier when they travel by rail. They are kept on the passenger-business car track. At the time and place in question, Carrier's Supervisor called the situation an emergency, and said Supervisor W. L. Davis started the engine on the power plant car by pushing a button, then plugged in a cable to furnish service to the office car, stating that this was all that was necessary to be done and that it took only a few minutes.

This claim by Carrier is bitterly disputed by Employes, who cite instructions for placing passenger business cars on standby, as required, when the cable is plugged in: (1) an inspection to determine that the motor alternator circuit breaker drops out, removing load from same; (2) push start button on the generator and inspect to see that the reverse current relay closes line contactor, and inspect, test and check to assure that the generator regulator is properly protecting the generator and the storage batteries, and (3) inspect and test to see that cable is plugged in on side of car that the electrical load is transferred to, when power plant is shut down.

Employes claim this is electrical work demanding, under appropriate work rules, the calling in of electricians, and that Supervisor Davis, in taking it upon himself to do this work, was violating numerous quoted work rules, that for employes, it came under the descriptive term "And all other work generally recognized as electricians' work".

Carrier strongly denies this claim, in its contentions and rulings all the way from the complaint by the Local to the National Railroad Adjustment Board, contending that it is a simple operation, done by many types of personnel, including Supervisors, not assigned to any craft, by contract or by custom.

Most vehemently contested fact between Carrier and Employes was whether this type of work had been recognized as electricians' work in the past. Employes contended at every level of appeal, that this work was recognized by the parties up to this point as coming under the signed agreement between Carrier and the Union Organization as belonging to the Electricians.

Rule 93 of the basic agreement between the parties, titled "Classification of Electricians" describes electricians' work as follows:

"Electricians' work shall include electrical wiring, maintaining, repairing, rebuilding, inspecting and installing of all generators, switchboards, meters, motors and controls, rheostats and controls, static and rotary transformers, motor generators, electric welding machines, storage batteries, axle lighting equipment, electric clocks and electric lighting fixtures; winding armatures, fields, magnet coils, rotors, transformers and starting compensators; inside and outside wiring at shops, buildings, yards, and on structures and all conduit work in connection therewith, steam and electric locomotives, passenger train and motor cars, electric tractors and trucks; cable splicers, wiremen, coil winder on train controls, high-tension power house and substation operators; oxyacetylene, thermit and electrical welding on work generally recognized as electricians' work as provided in Rule 27; building, repairing, and maintaining catenary and monorail conductors, trolley and feed wires, overhead and underground, together with their

"supports; maintaining, inspecting and installing third rail and cables for third rail that carry current to or from a third rail and track rail; pipe lines or conduits for these cables; bonding of third rail or cables, and all other work generally recognized as electricians' work. (Mechanical Department electricians will install and remove radio and radio equipment on locomotives and cabooses.)" (Italics mine.)

This definition does not specifically list the supplying of standby electrical service to power plant cars, and applying service to passenger-business cars as electricians' work, but Employees' position is that such work is covered by the phrase "And all other work generally recognized as electricians' work."

Employees state that Carrier has, up until this case, "Called or notified claimants for overtime work of placing said passenger cars on electrical standby service" and has "Assigned claimants to perform all electrical work on the passenger-business car repair tracks at West-Jacksonville Facility". "It has never been a practice for Supervisors to perform work on this property;" "Up until this incident, Carrier had always recognized this type work on these business-passenger cars 'As work generally recognized as electricians' work'".

When Supervisor Davis connected up the business-passenger cars with the power, he called an electrician from the roundhouse to take over and continue operating the standby power plant as long as the regular power source was not available. This is the point of strong contention between the parties; that these particular business-passenger cars were under the jurisdiction, for work, of the electricians complaining here, and by calling an electrician from the roundhouse who stayed on the job and got overtime compensation, their contract was ignored, their rights violated, and their contract work given to others.

In controverting Employees' contention, Carrier states that "Your working agreement has (not) been violated,"; this service "Has historically been performed by forces readily available; this work is not assigned exclusively to any craft by agreement or otherwise".

Carrier claims: "Search of Carrier's records reveals that no such claim as this has ever been paid." (Employees contend that claims have been paid due to Supervisors performing work on this property), but Carrier answers "Carrier states emphatically that no claim similar to the present dispute has ever been paid on this property by Carrier's highest Officer of Appeal".

There are other points of disagreement between the parties, but we think those quoted are determinative of and control this Board's action in this case.

There are many decisions by both the Second and Third Divisions of the Board that the Claimants have the burden of proving with probative evidence, every essential element of their claim when the Carrier disputes the claim. The burden is on the Employes to prove historically and customarily that they, exclusively, have performed the work at issue under the general terms of the work agreement, where the specific work is not spelled out, but comes under the general description of electrical work. Carrier has disputed their every claim on this point. The Board could wish for more light on the subject; we have a head to head dispute between the parties as to who has and who has not done this type of work under this specific contract in the past, but no work records were produced by either party to show who was right and who was in error. The writer does not write this Opinion as determinative of the question, but only of this specific claim on this Docket. In event the question arises again, the writer suggests that the parties produce the work records to show who are correct in their contentions.

We cannot supply that evidence for either party, and absent it, the relief sought is not available to claimants. This is a long and well settled rule of the Board, so well settled that copious quotations from the many adjudicated cases would develop nothing new, but only encumber and lengthen this record.

The settled Rules of the Board require, under this state of the record, that the claim 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
-Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 1st day of August, 1979.