

The Second Division consisted of the regular members and in addition Referee James F. Searce when award was rendered.

Parties to Dispute: (System Federation No. 2, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Electrical Workers)
(
(Houston Belt and Terminal Railway Company

Dispute: Claim of Employees:

1. That the Houston Belt and Terminal Railway Company violated Rules 22(a) and (b), 23 and 100 of the September 1, 1949 controlling agreement when they assigned Carmen D. K. Clifton, B. D. Flowers, O. L. Little, C. E. Kodgenski, Don Seary and S. R. Trulock to performing electricians' work, i.e., to installing electrical service (source), service box and wiring, from the alternator on Carrier's tool car (#1511) for the air conditioner on Carrier's bunk car (#X3595), thus, depriving Electricians C. R. Wilson, T. J. Atkinson, E. L. Nunn and Roy Paul of their contractual rights to said work at Houston, Texas.
2. That accordingly, Carrier be ordered to compensate Claimants listed below eight hours (8') at the straight time rate as follows:
 - June 24, 1976 - C. R. Wilson, T. J. Atkinson and E. L. Nunn;
 - June 25, 1976 - Roy Paul, E. L. Nunn, C. R. Wilson and T. J. Atkinson;
 - June 28, 1976 - C. R. Wilson and T. J. Atkinson;
 - June 29, 1976 - C. R. Wilson, T. J. Atkinson and E. L. Nunn.
3. In addition to the money amounts claimed herein, the Carrier shall pay Claimants an additional amount of 6% per annum compounded annually on the anniversary date of the claim.

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 International Association of Machinists and Aerospace Workers was given the opportunity to participate in this dispute as an interested third party.

There appears to be no particular dispute that, on certain dates in June of 1976, the Carrier directed carmen to perform certain work required to provide electrical power to the air conditioning system in a new "bunk" (or "dormitory") car. To do so, it was necessary to install wiring and other electrical devices so as to permit connection from an electrical service box in the "tool car" to an alternator in the bunk or dormitory car. According to the Carrier, such installation was accomplished in a manner so as to permit separation of such cars, if necessary, when on the line of road or at a wreck site. The Organization (herein) objects, contending that such work was electricians and that the claimants were available to perform such work; it relies upon Rules 23 and 100, inter alia, to support such claim:

RULE 23

ASSIGNMENT OF WORK

(a) None but mechanics or apprentices regularly employed as such shall do mechanics' work as per special rules of each craft, except foremen at points where no mechanics are employed.

(b) This rule does not prohibit foremen in the exercise of their duties to perform work.

RULE 100

CLASSIFICATION OF WORK - ELECTRICAL WORKERS

Electricians' work shall consist of maintaining, repairing, rebuilding, inspecting and installing all electric wiring of generators, installing switchboards, meters, motors and controls, rheostats and controls, static and rotary transformers, motor generators, electric headlights and headlight generators, electric welding machines, storage batteries, axle light equipment and electric lighting fixtures; winding armatures, fields, magnets, coils, rotors, transformers and starting compensators; wiring at shops and all conduit work in connection therewith; wiring steam and electric tractors and passenger train and motor cars, and electric tractors and trucks; and all other work generally recognized as electricians work.

The Carrier contends that work on such equipment is not exclusively that of electricians where such equipment is on line of road or on the "wrecker track," as was the case here, it relies upon Rule 50 - Classification of Work - Machinists, Item (b) in this regard:

RULE 50

CLASSIFICATION OF WORK - MACHINISTS

...

(b) This rule shall not be construed to prevent engineers, firemen, cranemen, operators of steam shovels, ditchers, clam shells, wrecking outfits, pile drivers and other similar equipment from making any repairs to such equipment as they are qualified to perform, on line of road or wrecker track.

The Carrier also asserts that not all of the claimants are classified to perform work on rolling stock and, thus, the Claim is flawed; it also asserts that no work occurred on June 29, 1976 and thus the Claim is additionally erroneous.

It is clear that the work performed was electrical in nature and was new. It is not apparent that it was only intended for use when the equipment was on the line of road but, rather, appears to have been intended to serve both the purpose of affording air conditioning while the equipment was in use on the wrecker track as well as making its air conditioning system roadworthy.

The Carrier's use of Rule 50 is strained in its intent to cover such work here: by its caption, this Rule clearly applies to the Machinist classification. It is important to note that no such provision, as set out in Rule 50 (b) is similarly a part of the electrician's classification of work (Rule 100).

In its submission, the Carrier asserts that June 29, 1976 was not a day worked, yet the record indicates it never raised this defense while the dispute was on the property. By the same submission, it also contends that two of the Claimants were "maintenance electricians" and, as such, not properly classified to perform such work. This aspect of the Claim also appears to have first been raised in its ex parte submission. If it can be demonstrated that no such work ensued on June 29, 1976, then this portion of the Claim is invalid since the Claimants cannot lay claim to something that did not exist. In upholding the Claim, we find no merit to the Carrier's assertion of the lack of validity of the Claim by Claimants herein in the maintenance electrician classification, because the Carrier failed to demonstrate why maintenance electricians could not perform such work, as assigned, if the equipment was sited on the wrecker track and work performed there. The claim will be sustained as stipulated above, except for Item No. 3, on which no agreement support has been cited.

A W A R D

Claims are affirmed as set forth in the Findings.

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 17th day of October, 1979.