

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. 2, Railway Employees'
 { Department, A. F. of L. - C. I. O.
 { (Electrical Workers)
 { Missouri Pacific Railroad Company

Dispute: Claim of Employees:

1. That the Missouri Pacific Railroad Company violated Rules 1 and 24 of the Communications Agreement effective August 1, 1977 and Article III of the September 25, 1964 Agreement at St. Louis, Missouri when on Wednesday, March 1, 1978, from 9:40 a.m. to 1:30 p.m., Assistant Project Manager Wilcox assigned himself to perform Communications Maintainers' work, i.e., disconnecting Carrier and Bell Telephone modem quad cables from a demark block (terminal block) then cutting and splicing said cables, thereby depriving Communications Maintainer A. Tate the provisions of the Agreements.
2. That, accordingly, Carrier be ordered to compensate Communications Maintainer A. Tate for Wednesday, March 1, 1978, four hours (4') at the time and one-half rate.

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.

In this dispute, there is little conflict as to the basic facts involved. Carrier's Assistant Project Manager, a supervisory employe not covered under the agreement applicable here, undertook to make certain alterations in wire and cable connections required as part of video display terminals in the Carrier's training room. The nature of the work is clearly covered under Rule 1, Scope, of the applicable agreement, in which duties of Communications Department employes are defined. Claimant is a Communications Maintainer, compensated on a monthly basis and on his rest day (seventh day of week) on the date in question.

According to the Carrier, the Assistant Project Manager noted what he considered to be hazardous electrical conditions, owing to the relocation of some of the equipment in the training room. He first attempted to obtain the services of a Communications Maintainer on duty but was unsuccessful. He then proceeded to do the work himself. There is some dispute as to the extent and purpose of this work, but none that it was of a nature regularly assigned to Communications Maintainers.

The Carrier defends its actions on the grounds that the Assistant Project Manager was faced with an "emergency" owing to the hazardous conditions (exposed wiring and equipment, etc.). The Organization strenuously denies that a genuine "emergency" existed.

Directly applicable is Article III of the September 25, 1964 Agreement which reads in part as follows:

"ARTICLE III - ASSIGNMENT OF WORK - USE OF SUPERVISORS

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

In work jurisdiction disputes, the Organization bears the burden of proof to establish its claim to the type of work involved; in this case, there is no dispute on this point. Where the Carrier seeks an exception, for example the presence of an emergency requiring action by a supervisor, it is the Carrier which must offer substantial proof of its position. A thorough examination of the record herein fails to show that an "emergency" existed requiring the supervisor to make the wiring adjustments or that, if hazard did indeed exist, it could not have been avoided in other ways.

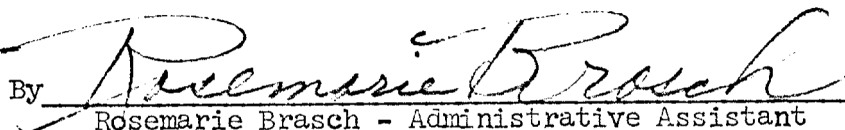
The Carrier takes the position that, even if the claim is sustained, no monetary remedy is required, owing to the nature of the Claimant's status as a monthly-rated employee. The work involved here, however, was performed on the Claimant's rest day, and he would have received extra compensation had he been assigned the work. The monetary claim is thus in order but, in keeping with established precedent, it is not payable at the punitive rate since the Claimant was not actually called upon to perform the work.

A W A R D

Claim sustained at the straight time rate of pay.

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 20th day of February, 1980.