

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

Parties to Dispute: (International Brotherhood of Electrical Workers
(Local Union No. 366
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(The Duluth, Missabe and Iron Range Railway Company

Dispute: Claim of Employees:

1. That the Duluth, Missabe and Iron Range Railway Company (DM&IR) violated Rule 23C of the current Shop Craft Agreement when it assigned Mr. Phil Oja and Mr. Terry Olson to perform work on the Iron Range Division. Their regular duties are on the Missabe Division. At the time Mr. Oja and Mr. Olson crossed division lines, eight (8) electrician Helpers were on furlough.
2. Accordingly, the Duluth, Missabe and Iron Range Railway Company be ordered to pay Electrician Helpers David G. Ostby, John R. Nelson, Thomas R. Camilli, Jeffrey A. Aikin, Mark J. Anderson, Gregory J. arras, Richard A. Swenson, and John Martinovich 238 hours pay each at the straight time rate including holidays with the exception of Mr. David Ostby who is entitled to 200 hours because of returning to service and vacation taken.

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.

Claimants are Electricians Helpers with seniority dates after March 15, 1970 -- a factor cited as important -- and who were on furlough when, during the period of November 24, 1980 through January 16, 1981 the Carrier assigned two (2) "Missabe Division" electricians to perform some 206 hours of work on the Carrier's "Iron Range Division." The two aforementioned electricians had seniority dates prior to March 15, 1970.

The dispute arose when the Carrier assigned the two electricians to perform work which the Organization contends crossed the "jurisdictional lines" between the Iron Range and the Missabe Divisions at a time when the Claimants were on furlough and available for work. This, the Organization asserts, violated Rule #24C and particularly that portion which states:

"Iron Range employees will be granted the first right to any construction or emergency work on the Iron Range Division. Missabe employees will be granted the first right to any construction or emergency work on the Missabe Division. Any available furloughed employee will be returned to service before any electrical employee can cross division lines to perform construction or electrical work." (Underlining ours)

The Carrier asserts that Rule 24C is inapplicable to the Claimants except in its first paragraph which advises that:

"It is agreed that, effective March 15, 1970, any electrical employee hired as of or subsequent to said date shall be granted seniority on a common roster and shall perform work on the system."

The Carrier asserts that employees with seniority prior to March 15, 1970 are assured certain seniority rights depending upon which division -- Iron Range or Missabe -- they were assigned as of that date. Otherwise, per the Carrier, employees with seniority post that date share such rights system-wide, without regard to the Division to which they might be assigned.

The essential question before this tribunal is the intent of that portion of Rule 24C set out heretofore and underlined: does it have application to all represented employees or is it limited to those with reserved rights on the two Divisions. We conclude the latter; based upon the juxtaposition of this provision with the reserved rights language in the same paragraph, it is far more reasonable to conclude that the drafters of the Agreement were making reference to those employees who might be on furlough but with seniority dates prior to March 15, 1970 -- a condition not met by the Claimants -- to recall before the Carrier could send employees across such lines to perform construction or electrical work. As such, we conclude the Claim is without merit.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Acting Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this, 28th day of July, 1982.