

The Second Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.

Parties to Dispute: (International Brotherhood of Electrical Workers
(National Railroad Passenger Corporation (Amtrak)

Dispute: Claim of Employees:

1. That under the current Agreement, the National Railroad Passenger Corporation (Amtrak) improperly assigned Foremen L. Jackson and L. Deeter to pull electrical wires into conduit #22 of Car 1628 at Beech Grove, Indiana on July 23, 1981.
2. That accordingly, the National Railroad Passenger Corporation (Amtrak) be ordered to compensate Electricians W. Roemer and J. Agriesti an additional four and one-half hours at time and one-half the applicable electrician's rate, each.

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 employes 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, W. Roemer and J. Agriesti, are Electricians employed by the National Railroad Passenger Corporation (Amtrak) at Beech Grove, Indiana.

On July 23, 1981, Claimant Roemer advised Foreman Jackson that he was unable to pull a bundle of electric wires through the conduit on Car No. 1628. Claimant Agriesti was available to assist Roemer but was not assigned to help him. Instead, the work was removed from the Electrical Workers, including the Claimants, and was assigned to and performed by Foremen Jackson and Deeter.

The Organization's position is that the work is old work commonly performed by Electricians, including Claimants, and cannot be assigned to Supervisors under Rule 1 of the Agreement, absent the existence of extraordinary conditions. Rule 1 states:

"Pending adoption of a national classification of work rule, employees will ordinarily perform the work which has been performed traditionally by the craft at that location, if formerly a railroad facility, or, as has been performed at comparable Amtrak facilities, if it is a new facility."

The Organization contends that the Carrier failed to show the existence of any extraordinary conditions which might justify the removal of the work at issue from the Electricians and awarding the work to the Foremen.

The Organization further contends that the Claimants requested physical assistance and not instruction from the Foremen. Thus, the Foremen should have provided such help by assigning additional Electrical Workers, who are employees who ordinarily perform such work, and should not have assigned such work to themselves.

The Organization argues that Rule 37 of the Agreement is not applicable because at the work location involved in this case, there are many mechanics of the Electrical Craft employed there; and there is sufficient work to justify mechanics.

Rule 37 states:

"Assignment of Work. At points where there is not sufficient work to justify employing a mechanic of each craft, the mechanic or mechanics employed at such points will so far as they are capable of doing so, perform the work of any craft not having a mechanic employed at that point. Any dispute as to whether or not there is sufficient work to justify employing a mechanic of each craft, and any dispute over the designation of the craft to perform the available work shall be handled as follows: At the request of the General Chairman of any craft the parties will undertake a joint check of the work done at the point. If the dispute is not resolved by agreement it shall be handled as a grievance as provided in Rule 24 and pending the disposition of the dispute the Carrier may proceed with or continue its designation."

The Organization argues that the Claimants are entitled to compensation for the loss of the additional work opportunity.

The Carrier's position is that the incident in question does not constitute a rule violation as the Classification of Work Rule does not prohibit Foremen from performing duties which require demonstration or instruction.

The Carrier submits that the actions of the Foremen served to instruct the Claimants in the proper method of pulling wire and resulted in the removal of the wire without injury to persons or equipment.

The Carrier further asserts that there is no basis for a monetary award as no rule in the Agreement provides for the payment sought by the Organization.

The Carrier submits that the claim should be denied because no damage occurred and no penalty rule exists allowing compensation in the absence of damage. According to the Carrier, the Claimants worked their full shift and did not incur a loss of wages or other benefits as a result of Foremen Jackson and Deeter pulling the conduit wire. Since a penalty rule does not exist, the Carrier argues that the claim for compensation must be denied.

After reviewing the record in this case, this Board finds that the Carrier violated Rule 1 of the Agreement by removing work ordinarily performed by Electrical Workers from the Claimant Electricians and awarding said work to Foremen. The work in question was clearly bargaining unit work and, consequently, should have been performed by Electricians.

The record makes it clear that the Foremen did not perform the task for instructive purposes. Furthermore, there were no extraordinary circumstances present to justify having the Supervisors doing Electrician work.

This Board finds that the Carrier's action is a violation of the Agreement. In Third Division Award 7350, the Referee stated:

"No greater aggravation exists than the removal of work from the scope of the agreement..."

However, since the work involved took such a small amount of time, the damages involved in this matter are de minimus. Moreover, none of the aggrieved Claimants lost any pay, and it would be very difficult to determine the amount of additional compensation or penalty that the Claimants were to receive for this very brief amount of work done by the Supervisors in violation of the Agreement. Therefore, although this Board finds that there was a violation on the part of the Carrier, it will award no monetary damages.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Deyer - Executive Secretary

Dated at Chicago, Illinois, this 20th day of March 1985.