

The Second Division consisted of the regular members and in addition Referee T. Page Sharp when award was rendered.

Parties to Dispute: (International Brotherhood of Electrical Workers
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(Soo Line Railroad Company

Dispute: Claim of Employees:

1. That the Soo Line Railroad Company violated the current agreement effective September 1, 1949, in particular Rule 2, the Memorandum of Agreement dated July 29, 1959, and Article III of the National Agreement dated September 25, 1964, on September 2, 3, 4, 9 and 10, 1981, when it improperly assigned Supervisor Harris E. Meyers to perform the work of Communication Maintainers.

2. That the Soo Line Railroad Company be ordered to compensate Communication Maintainer John E. McGinn for forty (40) hours' compensation at the current rate of pay.

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.

On September 2, 3, 4, 9 and 10, 1981 a Carrier Supervisor sent tones over the 45A Carrier System. The Organization claims that this was a violation of the Agreement which gave them the exclusive right to the work. Specifically, the Organization cites Rule 2 of the Agreement. That rule reads in pertinent part:

"The work of the employees covered by this Agreement shall consist of all assembling, removing, dismantling, connecting, disconnecting, repairing, rebuilding, maintaining, overhauling, adjusting, applying, wiring, calibrating, aligning, stripping, cleaning, lubricating, and testing of all telephone, telegraph, communication switchboards, inter-office communications systems, public address, talk back, and paging systems; carrier systems and equipment including carrier transmitter, receivers, repeaters, multiplexing and related equipment used for communication or control..."

The correspondence on the property established that the Carrier denied the claim on the basis that the Supervisor was performing supervisory work and was checking the work of the Claimant. It is admitted that Claimant had previously adjusted and lined up the 45A terminal.

The facts do not support the Carrier's position. The Supervisor checked the work of Claimant on five days. Both parties admit that on two of those days Claimant was not on duty. Surely this conduct would qualify as "testing" which, under the terms of Rule 2, falls into the exclusive jurisdiction of the electrical craft.

The Claim for forty hours pay is justified in Claimant's brief which states:

"This claim is for forty (40) hours pay, because this is the amount of work which was performed by Mr. Meyer, in violation of our agreement. The Carrier has never taken exception to the amount of time claimed."

The amount of time performed by the Supervisor was not raised by the Claimant on the property. The issue was addressed by the Carrier. By letter of June 10, 1982 the Director of Labor Relations wrote the General Chairman and in that letter stated:

"We furthermore note that this claim is excessive and that there is no rule support for a claim of 40 hours when actual time consumed averaged 30 minutes each date."

The Carrier did not acquiesce in the time claimed.

We find that there is a Rule violation. However, the burden is on the Claimant to cite to this Board contractual provisions that provide the basis for redressing the violation. This he has not done.

A W A R D

Claim sustained in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 4th day of December 1985.