

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONAward No. 13064
Docket No. 12827
96-2-93-2-201

The Second Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

(International Brotherhood of Electrical
(Workers
PARTIES TO DISPUTE: (
(Consolidated Rail Corporation

STATEMENT OF CLAIM:

"The following claim and grievance submitted by the Organization to Division Engineer-Structures D. Killenbeck, Consolidated Rail Corporation, by letter dated June 15, 1992, on behalf of B&B Electricians R. J. Commisson and J.K. Benn, Selkirk, NY:

Mr. D. Killenbeck
Division Engineer-Structures
Selkirk, NY 12158

Mr. Kellenbeck:

In accordance with Rule 2-A-4, I hereby submit the following grievance (claim) for your handling.

Rule Violated: Scope of Agreement
Location of Violation: Beacon, NY
Time of Violation: 1730 Hrs. on 6-11-92 to 0700 hrs on 6-12-92

Name(s) of violator(s): Mr. John Tolan, Supv., B&B

On 6-11-92, Conrail Train NHSE, units 6083-6448-6610 derailed on the Hudson Division at Beacon, NY. At 1730 hrs. Mr. Tolan ordered Mr. Bill Moke, a carpenter foreman and Mr. Ed Tompkins, a machinist to go to Francisco's in Ravena, NY to pick up two (2) generator light kits and take them to Beacon, NY. While there they set up and operated same until their return to Selkirk. This type of work belongs exclusively to the IBEW and not to the two individuals who were sent to Beacon, NY.

Fourteen and one-half hours, at the overtime rate, is claimed for Mr. R. Commisson and Mr. J. Benn in accordance with Rule 2-A-4."

FINDINGS:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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 were given due notice of hearing thereon.

The International Association of Machinists and Aerospace Workers and the Brotherhood of Maintenance of Way Employees were each notified of this dispute as Third Parties in interest. The IAM filed a short Submission with the Board, and the BMWWE advised that it would not intervene.

In connection with a derailment for which night work was required, a Supervisor instructed a Foreman and a Machinist to secure two generator light kits from a local vendor and transport them to the derailment site. According to the Carrier, the Foreman and Machinist then "plugged [the lights] in and cranked the aerial light mast to a vertical position. They then started the generator to power the lights." While not so stated, it can be assumed that the two employees took reverse actions the following morning.

The Organization contends that this is work which should properly have been assigned to Electricians. Section II.A of the applicable Scope Rule reads in pertinent part as follows:

"Electricians' work shall consist of assembling, installing, removing, maintaining, repairing, rebuilding, inspecting and testing of ... electric light fixtures
...."

The Carrier argues that the rental and transportation of the equipment is not reserved to Electricians and that any operation of the lights must be considered de minimis.

The Board determines that the Claim does not have merit as to the obtaining and returning of the equipment nor to such period as the lights were in use to illuminate the wrecking scene. The Board is convinced, however, that the installation and removal of the lights fall clearly within the scope of Electrician's work and that it would be unreasonable to consider this de minimis.

The Claim, however, seeks overtime pay for 14½ hours, which is apparently the total elapsed overtime worked by the Foreman and Machinist. This is excessive in two ways. First, as discussed above, the work involved in rental and transportation was not improperly assigned. Second, payment at the premium rate is unwarranted, since the Claimants were not required to perform work during overtime hours. Thus, the Award will provide for payment of four hours' straight time pay to each Claimant.

AWARD

Claim sustained in accordance with the Findings.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 9th day of December 1996.