

Award No. 1794
Docket No. 1687
2-PULL-EW-'54

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

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

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 122, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (Electrical Workers)

THE PULLMAN COMPANY

DISPUTE: CLAIM OF EMPLOYEES: 1. That under the current agreement the Carrier violated Rule 15 when they assigned Electrician K. M. Bunn to fill temporarily the place of supervisors and did not pay him accordingly.

2. That accordingly the Carrier be ordered to compensate Electrician K. M. Bunn the difference in pay from what they did pay him and what he should have earned in accordance with Rule 15 during these assignments.

EMPLOYEES' STATEMENT OF FACTS: Electrician K. M. Bunn, herein-after referred to as the claimant, is employed by The Pullman Company at Jacksonville, Florida, with relief days of Saturday and Sunday and regular bulletin hours 9:00 A. M. to 5:30 P. M.

The carrier assigned the claimant to fill temporarily the place of Assistant Foreman B. F. Grosvenor from October 5 to October 25, 1952 inclusive, with Tuesday and Wednesday off, working him from 8:30 A. M. to 6:00 P. M.

The carrier assigned the claimant to fill temporarily the place of Assistant Foreman H. E. Nichols from October 26 to November 15, 1952 inclusive, with Sunday and Monday off, working him from 8:30 A. M. to 6:00 P. M.

The carrier assigned the claimant to fill temporarily the place of Foreman R. E. Nickel from November 16 to November 22, 1952 inclusive, with Tuesday and Wednesday off, working him from 8:30 A. M. to 6:00 P. M.

The agreement effective July 1, 1948, as subsequently amended, is controlling.

In progressing this claim on Pullman property, the organization has ignored the fact that the electrical workers' agreement does not govern the manner in which employees who have been promoted to supervisory positions and possess supervisory seniority shall be paid. The organization relies completely upon the provisions of "**Rule 15. Filling Supervisory Positions Temporarily**" of the electrical workers' agreement, which rule reads as follows:

"RULE 15. Filling Supervisory Positions Temporarily. Should an electrician be assigned to fill temporarily the place of a supervisor, he shall receive 12 cents per hour over and above the minimum rate paid electricians for the time so engaged—straight time rate for straight time hours and overtime rate for overtime hours."

Simply stated, the rule upon which the organization relies provides that an electrician temporarily assigned to fill the place of a supervisor shall receive 12 cents per hour over and above the minimum rate paid electricians for the time so engaged—straight time rate for straight time hours and overtime rate for overtime hours. The provisions of the rule are applicable to an electrician who is assigned temporarily to fill the place of a supervisor. Rule 15 does not apply to an electrician who has been promoted to a supervisory position as contemplated by "**Rule 44. Employees Considered for Promotion.**" The rule plainly contemplates that the electrician who is temporarily assigned to fill the place of a supervisor shall not be considered as in the position of a supervisor. As an electrician who does not possess supervisory seniority, he is subject to the 12 cents per hour differential paid electricians for temporarily taking the place of a supervisor. The provisions of Rule 15 plainly are not applicable to Bunn for the period in question since he was promoted to a supervisory position established by the company, effective October 1, 1952, and was not assigned to fill temporarily the place of a supervisor. Further, the relief days for which the organization is making claim were incident to Bunn's position as an electrician and have no relation whatever to the relief days assigned to him in his supervisory position.

CONCLUSION

The company has shown that there has been no violation of Rule 15 of the electrical workers' agreement in the manner in which Bunn was promoted to a supervisory position and compensated as a supervisor during the period in question. The relief days for which the organization is making claim were incident to the position he occupied as an electrician and do not apply to the period October 1-November 26, 1952, during which period Bunn occupied a supervisory position. Further, the company has shown that Rule 44 of the electrical workers' agreement supports the company's position in this dispute in that it contemplates that electrical workers shall be promoted into supervisory positions. Finally, the company has shown that Rule 14, paragraph (b), of the A.R.S.A. agreement confirms the correctness of the company's position in this case.

The organization's claim in behalf of Electrician Bunn is without merit and should be denied.

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.

The parties to said dispute were given due notice of hearing thereon.

Claimant is employed as an electrician at Jacksonville, Florida, Monday through Friday, 9:00 A. M. to 5:30 P. M. He was assigned to temporarily fill the position of Assistant Foreman B. F. Grosvenor from October 5 to October 25, 1952, Thursday through Monday 8:30 A. M. to 6:00 P. M. He was also assigned to temporarily fill the position of Assistant Foreman H. E. Nichols from October 25 to November 15, 1952, Tuesday through Friday, 8:30 A. M. to 6:00 P. M. He was likewise assigned to temporarily fill the position of Foreman R. E. Nickel from November 16 to November 22, 1952, Thursday through Monday, 8:30 A. M. to 6:00 P. M. The claim is for the difference in pay between what he was paid and what he should have earned in accordance with Rule 15, current agreement.

Rule 15 provides:

"Should an electrician be assigned to fill temporarily the place of a supervisor, he shall receive 12 cents per hour over and above the minimum rate paid electricians for the time so engaged . . . straight time rate for straight time hours and overtime rate for overtime hours."

It is the contention of the carrier that claimant was promoted to temporary assistant foreman for vacation relief purposes and that he was subject to the supervisor's agreement during the period worked. We do not concur with this view. The record in this case does not disclose that claimant acquired a seniority date as a supervisor, that he was ever placed on the supervisor's seniority roster, or that he was furloughed as a supervisor on November 22, 1952. Nor does it appear that claimant was required to exercise his seniority when he "reverted" to the work of electrician; the record indicating, though not expressly so stating, that he assumed his regular position as an electrician. The most that can be said, under the record before us, is that he was an electrician temporarily filling supervisory positions. Rule 15 is clearly applicable to him. The record does not disclose the compensation paid while claimant was working as a temporary supervisor. If it was less than the minimum rate for electricians plus 12 cents per hour, he should be paid the difference. We point out, however, that claimant assumes the hours and rest days of the supervisory positions he temporarily filled. The rest days of his regularly assigned position as an electrician have no bearing whatever in determining his pay as a temporary supervisor. He assumes all of the conditions, including the hours and rest days of those positions, when he works them as a temporary assignment. Claimant is entitled to be paid the minimum electrician's rate plus 12 cents per hour during the hours worked in filling the temporary supervisory positions. If he has not received that amount, his claim is valid for the difference. If he has received such amount, he has no claim. A determination as to whether claimant is entitled to a money award cannot be determined from this record. A remand is necessary to have the amount due, if any, determined in accordance with the foregoing views.

AWARD

Claim remanded for the purposes stated in opinion and findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 30th day of June, 1954.

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

**INTERPRETATION NO. 1 TO AWARD NO. 22,
DOCKET NO. 15**

NAME OF ORGANIZATION: Railway Employees' Department, A. F. of L.
(Sheet Metal Workers)

NAME OF CARRIER: The Chicago, Rock Island & Pacific Railway Company

Upon application of the representative of the carrier involved in the above award, that this Division interpret the same in the light of the dispute between the parties as to its meaning, as provided for in Sec. 3, First (m) of the Railway Labor Act, approved June 21, 1934, the following interpretation is made:

It is the intent of original Award 22, as well as corrected Award No. 22, Docket No. 15, that the railroad company shall pay Mr. Smith for all time lost between October 3, 1933, and October 12, 1933, and June 12, 1934, and August 15, 1934, less any amount earned in other employment.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 24th day of April, 1936.

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