

Award No. 784

Docket No. 681

2-AA-EW-'42

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 77, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (ELECTRICAL WORKERS)**

THE ANN ARBOR RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: That John F. Fennell and C. E. Adams, telephone and telegraph linemen, employed on the Ann Arbor Railroad, are covered by the existing agreement, dated July 1, 1921, between the Ann Arbor Railroad Company and System Federation No. 77, Railway Employees' Department, A. F. of L., and that they be compensated on the basis of 3156 hours per year at the current rate of pay for electrical workers employed by the Ann Arbor Railroad Company, and for the difference in rate of pay on this basis since they were employed as linemen by the company, as shown by their time records.

EMPLOYEES' STATEMENT OF FACTS: John F. Fennell and C. E. Adams are employed as telephone and telegraph linemen by the Ann Arbor Railroad Company and perform electrical work covered by the provisions of Rules 140 and 141 of the agreement of July 1, 1921. John F. Fennell is paid a salary of \$168.00 per month. C. E. Adams is paid a salary of \$162.00 per month. Rule 15 of the agreement dated July 1, 1921, provides the method of compensating road men on a monthly basis.

POSITION OF EMPLOYEES: That the linemen employed in the telephone and telegraph department of the Ann Arbor Railroad Company are covered by the existing agreement between the Ann Arbor Railroad Company and System Federation No. 77, as they are performing the work outlined in Rule 140 and Rule 141.

Rule 140 states, in part:

"... all inside telegraph and telephone equipment"

Rule 141 states:

Linemen's work shall consist of building, repairing and maintaining wires either overhead, on supports, or underground, including feed wires and all outside wiring in yards.

and these linemen should be compensated for this work as provided for in Rule 15.

The conduct of the parties in the application of the agreement covering employes in the motive power and car department (represented by Ann Arbor System Federation No. 77) for more than twenty years is conclusive evidence that the agreement effective July 1, 1921 does not cover telegraph linemen, and that fact has been recognized by the representatives of the International Brotherhood of Electrical Workers. In this connection, attention is invited to the carrier's Exhibits A and B; also to General Chairman Ramsey's letter of August 10, 1940 quoted in the carrier's statement of facts.

The foregoing statement on the merits is without prejudice to the position of the carrier that the adjudication of the alleged dispute set up in the petitioner's ex parte statement of claim does not fall within the province of the National Railroad Adjustment Board, Second Division, and, therefore, should be dismissed for lack of jurisdiction.

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.

The contention of the carrier that the Second Division, National Railroad Adjustment Board, does not have jurisdiction over parties to this dispute is without foundation as the Second Division's jurisdiction includes electrical workers, and telegraph and telephone linemen are classified as electrical workers. This Division finds claimants are entitled to the rate of pay as prescribed in the current agreement from March 22, 1941. The case is referred back to the parties to ascertain the amount, if any, of additional pay claimants are entitled to from March 22, 1941.

AWARD

Claim sustained as per the findings from March 22, 1941.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 26th day of May, 1942.

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee R. F. Mitchell when interpretation was rendered.

**INTERPRETATION NO. 1 TO AWARD NO. 784
DOCKET NO. 681**

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

NAME OF CARRIER: The Ann Arbor Railroad Company

Upon application of the representative of the employees 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:

At the time the question of the interpretation was orally argued before the referee, the representative of the employees conceded that a lineman received generally four cents per hour less than an electrician. There is no question in the mind of the referee that claimants acted in a dual capacity doing certain work which should have been performed by the electricians. The difficulty which confronts the referee is how to arrive at the exact manner of payment that these men are entitled to, and after carefully considering the entire matter, the referee is of the opinion that they should be paid for the work performed as electricians at the rate provided in the current agreement and for the other work under the lineman's pay.

It necessarily follows that the case will have to be referred back to the parties with the right to resubmit it if they cannot agree.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division**

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 6th day of January, 1943.

[668]