Award No. 1324

Docket No. 1257

2-CMSt.P&P-EW-'49

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee J. Glenn Donaldson when award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION No. 76, RAILWAY EMPLOYES' DEPARTMENT, A. F. of L. (Electrical Workers)

CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES: 1—That under the current agreement it was improper to transfer the operation of the west craneway electric traveling overhead crane from the electrical workers' craft to the class or craft composing employes of the stores department on or since about July 19, 1948.

2—That accordingly the carrier be ordered to restore the operation of the aforesaid crane to the employes of the electrical workers' craft.

EMPLOYES' STATEMENT OF FACTS: The carrier completed the construction of this new west craneway facility at Milwaukee, Wisconsin, between the freight car shops and other shops for operation about July, 1947. Thereupon George Gargen, of the electrical workers' craft, with a seniority date as of September 19, 1922, was assigned to and continued the operation of this crane until his vacation period began about July 19, 1948, when the carrier transferred the operation of this crane to an employe from the stores department. Since that time the carrier has declined to extend the electrical workers any right to the position.

The agreement, effective December 15, 1926, as subsequently amended, is controlling.

POSITION OF EMPLOYES: It is submitted that under the rules of the aforementioned controlling agreement, the carrier was not authorized about July 19, 1948, or at any time, to unilaterally transfer the operation of this electric traveling overhead crane from the electrical workers to the employes of the stores department covered by another agreement, and in support of this construction of said agreement, for ready reference, attention is called to provisions thereof as follows:

1—Rules 17 and 18, dealing with seniority, in their order reading—

> "Except as mutually agreed to, seniority of employees in each craft covered by this agreement shall be confined to the point employed. In making reduction or filling vacancies, ability being sufficient, seniority will apply."

new west craneway when the operation of that crane was turned over to the store department on July 19, 1948.

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 single question presented by the within claim is, did the carrier err, under the current agreements, in assigning an employe other than the one represented by the Electrical Workers to operate an electric overhead crane of less than 40 T. capacity, known as the New West Crane in the shops involved.

This crane was placed in operation on July 21, 1947, and was manned by an electrical worker until July 19, 1948, when he was transferred to work on another crane. His place was taken by a store department employe.

The carrier justifies its action in the main upon the grounds that the position of "crane operator" falls within the scope of the Clerks' agreement; that the crane in question serves facilities of the store department, and that it exists for the purpose of handling materials.

The claimant's case rests on the fact that for the first year of its operation, the crane was manned by claimant, an electrical worker; that Rule 117 of the current agreement provides in part, "This to include operators of electric traveling cranes capacity 40 tons and over"; that seniority lists for crane operators had been maintained by Electrical Workers at this shop for years, and that the minimum pay rule of the craft's agreement, Rule 142, recognized their jurisdiction by providing, in part, "Electrical crane operators operating cranes of less than 40 tons . . . cents per hour."

A study of the pertinent scope rules governing Electrical Workers indicates that jurisdiction over electric overhead cranes of all capacities, once exclusively conferred, was subsequently withdrawn in part. Such cranes of less than 40 tons capacity for good reasons, undoubtedly, and through collective bargaining, presumably, were dropped from the scope rules pertaining to Electrical Workers. A clear distinction remains, in matters jurisdictional, between electric overhead cranes dependent upon capacities. It is a crane of the lesser capacity which is no longer found in the scope rules of the craft union, with which we are concerned here.

In the face of these developments, mere mention of a rate for cranes less than 40 tons capacity in the rule governing minimum rates of pay, Rule 142, is insufficient to support a claim for exclusive jursidiction. That matter must be left to the parties for their consideration in the course of subsequent collective bargaining. This Board upon the case made is without justification to grant that which is asked.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 26th day of July, 1949.