

Award No. 2009
Docket No. 1864
2-AT&SF-EW-'55

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 97, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (Electrical Workers)**

**THE ATCHISON, TOPEKA AND SANTA FE RAILWAY
COMPANY**

DISPUTE: CLAIM OF EMPLOYEES: That in conformity with the current agreement the Carrier be ordered to bulletin new positions or vacancies to Telegraph Linemen occurring in the Communications Department.

EMPLOYEES' STATEMENT OF FACTS: Telegraph linemen, hereinafter referred to as the claimants, are hourly rated employees, regularly assigned to road work to install, repair and maintain telegraph lines and their appurtenances for the carrier in the communications department as telegraph linemen with headquarters assigned to a boarding car or hotel, working the assigned hours of the location in which the work is being done.

The agreement, effective August 1, 1945, as subsequently amended January 22, 1946 and September 1, 1949, is controlling.

POSITION OF EMPLOYEES: It is submitted that under the provisions of Rule 118, reading as follows:

"All general rules except those in conflict with the following special rules will apply to Communications Department employees of the following classes:

- (a) Division Linemen
- (b) Electricians
- (c) Linemen
- (d) Apprentice Linemen
- (e) Groundmen
- (f) Helper Apprentices
- (g) Electrician Helpers"

In this instant case General Rule 16 would be applicable.

ment regardless of the fact that communications employees are covered by a separate section of the agreement.

Rule 16 of the General Rules reads as follows:

"FILLING VACANCIES OR NEW POSITIONS

(a) New positions or permanent vacancies will be bulletined. Temporary vacancies of thirty (30) calendar days or more known duration, if such vacancies are to be filled, shall also be bulletined. Bulletins must be posted four (4) days before permanent assignments are made to such new positions or vacancies.

(b) Employees desiring positions so bulletined will make written application in duplicate to the officer in charge, and duplicate copy of the application will be given to the Local Craft Chairman by the foreman."

The carrier maintains that Rule 16 does not apply to communications employees and cites Special Rules 118 and 121 as evidence thereof:

"Rule 118

All general rules except those in conflict with the following special rules will apply to Communications Department employees of the following classes:

- (a) Division Linemen
- (b) Electricians
- (c) Linemen
- (d) Apprentice Linemen
- (e) Groundmen
- (f) Helper Apprentices
- (g) Electrician Helpers"

"Rule 121

FILLING VACANCIES OR NEW POSITIONS

(a) New positions or permanent vacancies of Division Linemen will be bulletined; temporary vacancies of thirty (30) calendar days or more known duration, if such vacancies are to be filled, shall also be bulletined. These positions will be bulletined for ten (10) days to Division Linemen on the seniority district and awarded to the senior qualified applicant. If not so filled, the position will then be bulletined jointly to Electricians and Linemen on the seniority district on which the vacancy exists and awarded to the senior qualified applicant."

Rule 118 quoted above clearly rules out general Rule 16 since the special rules contain Rule 121, carrying the same caption as general Rule 16, and makes no provision for bulletining any positions in the various communications crafts except those of division linemen. Since all other positions under this agreement are similar in scope and duties, no benefits would accrue to either the employees or the carrier through bulletining the vacancies.

Clearly, Rule 121 does not provide that positions of linemen are to be bulletined. Had that been the intention of the parties, proper language would have been found to make it clear. Clearly the intent was that only division linemen positions be bulletined.

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 this dispute were given due notice of hearing thereon.

It is our opinion that the current agreement requires the carrier to bulletin new positions or vacancies to telegraph linemen occurring in the Communications Department.

Rule 118, in effect, provides that all general rules except those in conflict with the special rules shall apply to linemen.

Rule 16 is a general rule and applies here since its provisions are not invalidated by the provisions of a special rule, insofar as a telegraph lineman is concerned. This rule is the one which requires the bulletining of positions and, by virtue of its general nature, includes the position in question.

Rule 121 is a special rule and provides a manner for bulletining the positions of division linemen. This rule does not set aside or conflict with Rule 16 insofar as linemen (other than division linemen) are concerned. In other words, the effect of Rule 121 is to negate the provisions of Rule 16 in bulletining the position of a division lineman and to require said bulletining in accordance with the specific and special provisions of Rule 121.

We are not attempting to add to the rules to say that a telegraph lineman's job must be rebulletined whenever a move is made from one location to another within the territory limited by his seniority. The nature of the work requires occasional and various moves and we are of the opinion that it is unnecessary, in light of the current agreement, to bulletin such a job, merely when a change of location is made.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 16th day of November, 1955.