Award No. 2146

Docket No. 1968

2-AT&SF-EW-'56

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Adolph E. Wenke when the award was rendered.

PARTIES TO DISPUTE:

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

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY
—Coast Lines—

DISPUTE: CLAIM OF EMPLOYES:

1. That under the current applicable agreements the Carrier improperly assigned an Official of the Carrier to perform work recognized as traveling Car Lighting and Air Conditioning Inspector's work on July 27 and 28, 1954, riding Trains 22 and 17 between Los Angeles and Barstow.

2. That accordingly the Carrier be ordered to compensate Electrical Worker Lawrence Wilde, a qualified Car Lighting and Air Conditioning Inspector in accordance with the provisions of the Agreements, at the straight time rate for eight (8) hours on July 27, 1954 and eight (8) hours on July 28, 1954, at the applicable time and one-half rate.

EMPLOYES' STATEMENT OF FACTS: Electrical Worker Lawrence Wilde, hereinafter referred to as the claimant, with a seniority date of November 9, 1937, is an hourly rated employe, regularly employed by The Atchison, Topeka and Santa Fe Railway System, hereinafter referred to as the carrier, in the mechanical department in the Los Angeles 8th Street Coach Yards, Coast Lines, as a car lighting and air conditioning electrician on the 8:00 A. M. to 4:00 P. M. shift Monday through Friday, rest days Saturday and Sunday.

The claimant held the position of car lighting and air conditioning inspector (train rider) during the year 1953 until the position was abolished on November 25, 1953. Submitted herewith and identified as Exhibit B is a copy of a letter dated November 25, 1953, addressed to Mechanical Superintendent T. T. Blickle by the claimant confirming the fact that he was qualified as a car lighting and air conditioning inspector (train rider) and that he was laid off from said position due to abolishment of his position.

Contrary to the general chairman's statement, Memorandum of Agreement No. 5 does not indicate that air conditioning and car lighting inspectors will be assigned. What it does do is supplement the provisions of Rule 14 of the general agreement and Item (24) of Appendix "B" in the event inspectors' positions are established.

The general manager has been unable to identify the "notice from Chief Mechanical Officer, Mr. J. P. Morris, on or about July 1, 1951" to which the general chairman refers and is completely uninformed with respect thereto, yet when this was called to his attention by the general manager, the general chairman made no attempt to straighten the matter out locally and appealed almost immediately to the assistant to vice president in language identical to the appeal to the general manager, notwithstanding that the latter had called to attention several discrepancies in the original appeal. Even when this situation was called to the general chairman's attention by the assistant to vice president, the former made no attempt to reconcile the facts.

The carrier submits that, under the circumstances set forth herein, the employes have not cited any rule which supports the claim and that there is, in fact, no such rule and the claim is therefore completely without merit, and we respectfully ask that the Board so decide.

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.

D. C. Boice, a system wide traveling car lighting and air conditioning inspector, did, on July 27, 1954, at carrier's instructions, ride carrier's passenger train No. 22 from Los Angeles to Barstow, both in California, and, on July 28, 1954, return on its passenger train No. 17 from Barstow to Los Angeles. He later in the day on July 28, 1954 rode passenger train No. 22 from Los Angeles to Barstow. While making these trips Boice made visual inspection of the electrical and air conditioning equipment on these trains, making temporary repairs thereto en route. These trips were within the Los Angeles territory.

This work was clearly within the scope of the parties' effective agreement as it relates to electricians. See Rule 92 of the parties' agreement effective August 1, 1945, Sections (i) and (j) of the parties' Memorandum of Agreement No. 5 effective March 1, 1951 and Paragraph (1) of the parties' Memorandum of Agreement No. 6 effective July 1, 1951. Therefore the work belonged to the employes covered thereby. Consequently whether D. C. Boice could be said to have been holding an official position or not is immaterial because the rules do not contemplate the establishment of a position of traveling car lighting and air conditioning inspector on a system wide basis. They contemplate such positions on a point or mechanical superintendent's territorial basis. See Sections (i), (j) and (l) of the parties' Memorandum of Agreement No. 5.

Memorandum of Agreement No. 5 (k) contemplates such work must be done by the senior qualified electrician who has his application on file with the mechanical superintendent of the territory in which it is to be performed. Claimant properly had his application on file and, being senior to Boice in the Los Angeles territory, was entitled to perform the work.

Carrier having violated the scope of the parties' agreement by having an employe holding a position not covered by the agreement perform work covered by it must pay some one covered by the agreement who was qualified and eligible to perform it for the work lost. In view thereof we find the claim should be allowed.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 27th day of June, 1956.