

Award No. 2148
Docket No. 2007
2-PULL-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. 122, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (Electrical Workers)**

THE PULLMAN COMPANY

DISPUTE: CLAIM OF EMPLOYEES: 1. That at the Pittsburgh District, The Pullman Company is violating the controlling agreement when they failed to bulletin positions to be of more than ten calendar days' duration showing the normal duties in accord with rule 42.

2. That the positions be bulletined showing the normal duties.

EMPLOYEES' STATEMENT OF FACTS: In April, 1953, the carrier posted a line-up that was to be put in effect April 15, 1953, changing the normal duties for all the electrical workers in the Pittsburgh District, a copy of this line-up is submitted herewith and identified as Exhibit A.

The duties shown in the line-up that went into effect April 15, 1953 and submitted as Exhibit A, were in violation of rule 42 and our Local submitted a claim dated April 27, 1953, a copy of this claim is submitted herewith and identified as Exhibit B and a supplement to this claim was also submitted by our committee dated May 13, 1953, a copy of this supplement is also submitted herewith and identified as Exhibit C.

Foreman Small on May 27, 1953, gave a decision to the Committee's claim which they accepted, a copy of this claim is submitted herewith and identified as Exhibit D. In this decision the normal duties of positions A-1, A-2, A-3 and A-4 read as follows:

"A-1 Inspection and repairs line-up A-1 incoming test, other as assigned.

A-2 Inspection and repairs line-up A-1 Specific Gravity test, other duties as assigned.

A-3 Inspection and repairs line-up A-2 incoming test, other duties as assigned.

A-4 Inspection and repairs line-up A-2 Specific Gravity test, other duties as assigned."

positions PRR A-1 and A-3 to be available only for daily inspection whether or not the exigencies of the service require incumbents of these positions to perform this work and by such a requirement improperly limit management in the assignment of work. However, numerous awards of the Adjustment Board support the company's position that except in so far as management has restricted itself by agreement the assignment of work necessary for its operation lies within the carrier's discretion. (See Third Division Awards 4042, 6022, 6839, 6944 and 6945).

CONCLUSION

In this ex parte submission the company has shown that **Rule 42. Filling New or Vacant Jobs** is not applicable to this dispute. Also, the company has shown that no rule of the agreement requires the company when inspection and repair jobs are bulletined to designate a specific type of inspection as part of the normal duties incident to those positions. Additionally, the company has shown that no rule of the agreement requires the company to rebulletin inspection and repair positions in the event the incumbents of those positions perform one type of inspection more frequently than another. Also, the company has shown that it was agreed between the parties that the term normal duties as applied to inspection and repair jobs contemplated that the incumbents of those positions perform general inspection work rather than a specific type of inspection. Finally, the company has shown that awards of the Adjustment Board support the company's position that except in so far as management has restricted itself by agreement the assignment of work necessary for its operation lies within the carrier's discretion.

The organization's claim 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 employee or employees involved in this dispute are respectively carrier and employee 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.

Since part of Rule 42 of the parties' effective agreement is the basis of this claim we shall set it out, together with our construction thereof, before discussing the claim itself.

Rule 42, insofar as here involved, provides:

"New jobs or vacancies known to be of more than 10 calendar days' duration shall be promptly bulletined by the supervisor in charge for a period of 5 days, including the day posted; bulletin to expire at midnight of the fifth day. Bulletin shall show the date of posting, expiration date, normal duties, scheduled hours of work and relief days. Employees desiring to bid for a bulletined position shall make application, in duplicate, to the supervisor in charge and a copy thereof shall be furnished the chairman of the local committee. The senior qualified applicant shall be assigned within 5 days after the expiration date of the bulletin."

8 [A prime objective of bulletining positions is to enable employees to exercise their seniority rights in respect to positions that they consider desirable. In order to know whether a position is desirable, an employee must be given sufficient information about it when it is bulletined. See Award 1574 of this Division.] That is the basic reason why Rule 42 requires

4 that the bulletin contain all of the information therein referred to, which includes the "normal duties" of the position being bulletined.

1 (When a position has been established by bulletin, the company cannot unilaterally substantially change the duties thereof.) However, this does not mean that by establishing a position and assigning certain duties thereto they become permanently fixed thereby. Carrier can reorganize its work when it finds necessity for doing so, and may change the duties of a position (but, when it does so, it becomes a new job for the purpose of Rule 42 and must be bulletined as therein provided,) otherwise seniority would have little value and employees, by reason thereof, would not have the choice of work to which their seniority entitles them. The foregoing would not apply if the changes were of a minor character and incident to the normal duties of a position.

Normal duties, within the meaning of Rule 42, are those the employee assigned to the position will usually and regularly perform.

In the beginning this dispute seems to have involved many positions, as evidenced by the claim of employees dated April 27, 1953 based on the company's line-up effective April 15, 1953. And again in the organization's rebuttal it complains of the company's changing the normal duties of many positions by its line-up effective November 7, 1954 as compared to that effective June 14, 1953. However, we shall limit our holdings to PRR positions A-1, A-2, A-3 and A-4. If any of the other positions violate the provisions of Rule 42, as we have construed it, the parties can make adjustments thereof on the property for the facts herein disclosed do not make it possible for us to do so.

Apparently the foregoing enumerated positions were bulletined, as to the duties thereof, as follows:

A-1 Inspection and repairs line-up A-1 and other duties as assigned.

A-2 Inspection and repairs line-up A-1 and other duties as assigned.

A-3 Inspection and repairs line-up A-2 and other duties as assigned.

A-4 Inspection and repairs line-up A-2 and other duties assigned.

The organization asks that these positions be rebulletined to show the normal duties for as presently bulletined the practice thereunder permits too wide a deviation as to the duties performed. It asks that the duties of A-1 be bulletined to read: Daily inspection and repairs line-up A-1, other duties as assigned.

A-3 be bulletined to read: Daily inspection and repairs line-up A-2, other duties as assigned.

The reason it gives as to why PRR A-1 should have the daily inspection is the fact that every day one of the electricians holding positions PRR A-1 and A-2 does the daily inspections on line-up A-1 and that the same is true of the employees holding positions PRR A-3 and A-4 as to line-up A-2. In other words the company is having these employees do this work intermittently and performing other types of inspection intermittently. It is the organization's thought that one of the positions should have the daily inspection on a regular daily basis and the other position do the other types of inspection on a daily basis.

The foregoing would undoubtedly be desirable from the employee's point of view but we find no rule requiring the company to assign its work in that manner. In the absence of any rule relating thereto the company may assign this work in any manner it desires in order to have it most efficiently performed. There appears to be several types of inspection the company is having performed and under the company's description of the normal duties of these

jobs it can have the occupants thereof perform all types thereof. The record discloses the organization has agreed to and approved similar descriptions of duties as they relate to bulletined jobs. Unquestionably the company could make an assignment of duties, such as here requested, but whether or not the company thinks it best to have one employe regularly make the daily inspections is a matter of its own concern as we have no authority, in the absence of provisions of the parties' effective agreement so requiring, to do so. If the company actually has the duties performed in the manner here requested then, of course, it would be required, under Rule 42, to bulletin the position in such a manner as to indicate that fact.

In view of what we have said we find the claim to be without merit.

AWARD

Claim denied.

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.