

Award No. 2580

Docket No. 2395

2-LI-EW-'57

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Curtis G. Shake when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 156, RAILWAY EMPLOYES'
DEPARTMENT, AFL-CIO (Electrical Workers)**

THE LONG ISLAND RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES:

1. That The Long Island Railroad Company during the week of May 9, 1955 assigned Carpenters to perform Electricians' work in the Electric Light and Power Department at Syosset Station in violation of the current agreement.

2. That accordingly The Long Island Railroad Company be ordered to compensate Electricians L. E. Largerstedt Jr. and F. F. Novak, also Electrician Helpers—Harold E. Barto and S. S. De Sernia each in the amount of 16 hours or 2 days' pay.

EMPLOYES' STATEMENT OF FACTS: The Long Island Railroad Company, hereinafter called the carrier, caused to be assigned a gang of carpenters consisting of seven men during the week of May 9, 1955 to perform the work of setting fourteen electric lighting poles along the westbound platform at Syosset Station in preference to having this electrical work performed by employees of the electrical workers' craft employed by it in the Maintenance of Way Department.

The carrier nevertheless, after the pole setting portion of this job had been completed, thereupon assigned employees of the electrical workers' craft to complete the job of installing the wiring and the lighting fixtures on the poles notwithstanding the employees of the electrical workers' craft had previously performed the same kind of work as here in dispute and, incidentally, at the same station along the eastbound platform thereof, which is affirmed by statement dated June 4th, 1956 signed by five Electricians, and a copy of a statement dated June 5, 1956.

The employees of the electrical workers' craft named in item 2 of the statement of claim will hereinafter be referred to as the claimants and their

ings of the Third Division, National Railroad Adjustment Board, in Award 6698 (Donaldson) in which that Division held in part as follows:

"The burden of establishing facts sufficient to require or permit the allowance of a claim is upon him who seeks its allowance."

See also Awards 4011, 3393, 3473, 2577, and others of this, and the other Divisions of the National Railroad Adjustment Board.

In view of the facts presented and for the reasons stated, the instant claim is without merit and should be dismissed.

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.

In the Spring of 1955, the carrier undertook to extend the platform of its Syosset, New York passenger station approximately four hundred seventy-five (475) feet to the east. The improvement embraced the erection of a wooden guard fence along the north side of the platform and the lighting of the premises. To accomplish this fifty-three (53) 4" x 4" posts, extending four (4) feet below and four (4) feet above ground were installed. These were interspersed at regular intervals by fourteen (14) 6" x 6" posts, set four (4) feet into and extending twelve (12) feet above ground. Guard rails were then nailed to this line of posts and subsequently electric light wires were attached to the top of the 6" x 6" posts. It is to be noted that when the work was completed the 6" x 6" posts served a dual purpose. They constituted an integral part of the fence as well as poles for the support of the electric wiring and lighting fixtures.

The organization contends that the carrier violated the agreement when it assigned carpenters and their helpers to erect the fourteen (14) 6" x 6" posts, claiming that for thirty (30) years the setting of electric light poles has been recognized as electrical workers' work. On the other hand, the carrier asserts that it has always been the practice for the carpenters to erect all the posts when they are designed to function as a part of a fence as well as supports for an electric line. Carrier concedes that the erection of poles for electrical lines exclusively is electrical workers' work.

Each of the parties has produced an impressive amount of evidence in support of its position and the dispute must be resolved by taking into account upon whom the burden of proof rests. On that view of the case it must be concluded that the organization has failed to establish that the work in controversy belonged exclusively to the electrical workers.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 30th day of July, 1957.