

Award No. 3097

Docket No. 3088

2-PULL-EW-'59

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee D. Emmett Ferguson when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 122, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Electrical Workers)**

THE PULLMAN COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current agreement the principle of seniority is not being adhered to when Management assigns one Electrician to the duties of another Electrician.
2. That accordingly the Carrier be ordered to discontinue this reassignment of duties.

EMPLOYEES' STATEMENT OF FACTS: Starting on June 25, 1957, in the New York District the company rearranged the electrical force by substituting one electrician with another electrician on duties of regularly bulletined positions.

This same type of rearrangement took place on the following dates: June 26, 28, July 1, 2, 3, and 4, 1957. Our local committee filed charges for each of these violations.

A hearing on these violations was held on September 23, 1957; a copy of this hearing record is submitted and shown as Exhibit A.

Under date of October 21, 1957, Foreman E. M. Curley, New York District, denied our claim; a copy of this decision is submitted and shown as Exhibit B.

Under date of November 4, 1957, we appealed this decision; a copy of our appeal is submitted and shown as Exhibit C.

Under date of December 17, 1957, Mr. W. W. Dodds, appeals officer, denied our appeal; a copy of this denial is submitted and shown as Exhibit D.

where they may be assigned, providing every attempt is made to return the employes to their bulletined assignments as soon as consistent.' ”

Further, an examination of the rule upon which the organization relies, **Rule 37. Date and Application of Seniority**, shows it contains **no provision** precluding management from taking the action it did on June 25, 1957. Nor does any other rule of the agreement contain such prohibition. The company submits that management retains all rights not contracted away and that inasmuch as it has not limited itself by contract the company properly used its discretion in the assignment of duties to electricians in Line-Up C on June 25, 1957 (Third Division Awards 2491, 5331, 6711 and 7362).

Finally, the organization's contention that certain electricians not identified in its claim to the Board were “unjustly treated” (Rule 51) is without merit since it has not and cannot establish that electricians were improperly used or unjustly treated on the dates in question.

CONCLUSION

In this ex parte submission the company has shown that on June 25, 1957, the company properly assigned electricians in Line-Up C to perform normal and extra work in accordance with the provisions of Rule 42 and the agreed-upon procedures in connection with bulletining positions. Additionally, the company has shown that there has been no violation of the principle of seniority as alleged in the manner in which electricians in Line-Up C were handled. Finally, the company has shown that the organization is attempting to give the false impression that certain information shown on the line-up to facilitate routine assignments on a day-to-day basis precludes management from reassigning employes to cover extra work when need for such type of assignment arises.

The claim 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 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.

Parties to said dispute were given due notice of hearing thereon.

The employes claim that the principle of seniority was violated when the supervisor assigned them differently than the line-up on which they had bid. It is an agreed fact that on at least one of claim dates there was extra work to be done.

From the evidence offered as to both parties understanding expressed in writing to their own constituents, we conclude that line-ups are intended to take care of routine customary operations. The form of Sample line-up offered in evidence refers to “Normal duties — usual assignment”. In practice the phrase “other duties as assigned” was obviously incorporated to permit management some latitude to meet varying conditions in operations.

The question then becomes one of whether or not such latitude has been over-extended or abused. The brotherhood has not shown here any such continued switching or unnecessary shifting of men as would constitute an attempt to break down the line-up system or the seniority rights of men bidding under it.

AWARD

The claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 27th day of January, 1959.