

Award No. 3611

Docket No. 3351

2-MC-EW-'60

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Mortimer Stone when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 30, RAILWAY EMPLOYES'
DEPARTMENT, A. F. L.-C. I. O. (Electrical Workers)**

THE MONONGAHELA CONNECTING RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: 1. That the Monongahela Connecting Railroad Company has violated the provision of the current working agreement between the Carrier and the International Brotherhood of Electrical Workers, particularly Rules 36 and 37, when it assigned employees of the Maintenance of Way Department to perform electrical work in its office building at Pittsburgh, Pennsylvania.

2. That accordingly, the Monongahela Connecting Railroad Company be ordered to compensate the Electrical Workers to the extent of eighty (80) hours prorata, and such compensation to be equally distributed among the first five electricians, first out for overtime, as a result of this violation.

EMPLOYEES' STATEMENT OF FACTS: The Monongahela Connecting Railroad Company (hereinafter called the carrier) employs a number of electrical workers in its shops and on its property in the Pittsburgh area, and who, by contract have performed all classes of electrical work, including the installation and maintenance of electrical equipment in all buildings and yards on that property.

The Monongahela Connecting Railroad Company also employs a number of Maintenance of Way employees so-called "Bridge and Building" employees who also perform work within their contract in all buildings and yards on the property.

During the course of making extensive alterations in the office building at 3540 Second Avenue, Pittsburgh, Pennsylvania, when employees of the International Brotherhood of Electrical Workers and the Maintenance of Way Bridge and Building employees were engaged in this work, the carrier, over the protest of the representative of the electrical workers, arbitrarily assigned employees of the Maintenance of Way employees organization to install Luminaire ceiling panels manufactured by the Thermotank Corporation. These panels are devised to serve as a luminaire and are installed below the fluorescent fixtures, which are mounted on the ceiling, thus substituting for a finished ceiling.

serve as an overhead interior lining of a room or in other words as a ceiling contributing to the decor and pleasant environment of the office whether enhanced by light or not.

In the statement of claims submitted to this honorable Board, the organization includes Rule 36 as being violated by the carrier. The carrier confesses to a complete state of confusion in its attempt to find the cause supporting the claim of violation. There is not a single instance where the carrier and the organization's representatives ever discussed whether or not the electrical employees were qualified as electricians.

The only part of Rule 37 which would have any possible bearing on the instant dispute is quoted here in part as follows: "Electricians' work shall include.....installation and maintenance of signals, electric clocks, and electric lighting fixtures.....". At this point the Board is reminded very respectfully of Memorandum No. 8 which has the mutually understood result of tempering the effectiveness of Rule 37 whenever past practice is in conflict with the language of the rule.

In this case there is no past practice which is in conflict with Rule 37 and so it must be recognized at its face value in the instant case.

In view of the foregoing argument it does not appear conceivable to the carrier that any decision other than a denial of the instant claim can be found. However, realizing and accepting the limitations of its ability perhaps to adequately state its case, the carrier urges your honorable Board to request that the Maintenance of Way Employees be advised and invited to participate in any hearings over this dispute. The employees of the Bridge and Building Department unequivocally claim the installation of this ceiling to be their work. The carrier is in complete agreement with their position. Any possible decision by your Board which is unfavorable to the carrier would place it in the untenable position of having to pay employees of two organizations for the work performed by only one. In the light of this eventuality, the carrier urges most strongly the inclusion of the Maintenance of Way Employees in the instant dispute.

CONCLUSION

In view of the foregoing the carrier respectfully requests your honorable Board to affirm its position in the instant case.

The carrier respectfully requests that your honorable Board invite The Brotherhood of Maintenance of Way Employees to submit to your honorable Board its position and to appear and be heard at the hearing.

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.

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

In the prior installation of fluorescent light fixtures there were diffusing devices attached to the light fixtures and they were installed by electricians. On the remodeling of the office space here involved the light fixtures were fastened flush to the structural ceiling by electrical workers then maintenance of way employes were used to install below the light fixtures a false "Luminated" ceiling made of translucent vinyl plastic material, which was attached to the structural ceiling entirely separate from the light fixtures.

While this false ceiling served to diffuse the light from the light fixtures installed above it there was no wiring or electrical contact or attachment of any sort to the electrical fixtures and the installation of the ceiling required no electrical skill or knowledge.

The Denver Bank Building and Fort Custer Air Base decisions relied on by the Organization recite that they were predicated on particular facts and evidence which they do not set out, and in each case it is stated that the decision shall be effective on that property only. They cannot guide us here. We cannot find that the ceiling here involved was an electrical fixture or its installation an electrical installation within the intent of the electricians' agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 9th day of December 1960.