

Award No. 3615

Docket No. 3481

2-SLSF-EW-'60

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 22, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L.-C. I. O. (Electrical Workers)**

SAINT LOUIS-SAN FRANCISCO RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES: That under the current agreement Equipment Repairman Clarence Maneke was unjustly treated and the provisions of the current agreement were violated when the Carrier abolished his position on the first trick at Springfield, Missouri, and subsequently assigned the duties of his former position to C. B. Brock with a title of Communication Maintainer.

That accordingly, the Carrier be ordered to:

1. Re-establish the Equipment Repairman's position first trick at Springfield, Missouri.
2. Reassign Clarence Maneke to the re-established position of first trick Equipment Repairman.
3. Compensate Clarence Maneke for the difference between the compensation he received on the position he was forced to occupy since May 1, 1958, and the compensation he would received had he been able to remain on his position as first trick Equipment Repairman.

EMPLOYEES' STATEMENT OF FACTS: Prior to May 1, 1958, Clarence Maneke, hereinafter referred to as the claimant, was employed by the St. Louis-San Francisco Railway Company, hereinafter referred to as the carrier, in the communication department as an equipment repairman.

The claimant was assigned to a work week of Monday through Friday, with Saturday as a "stand-by" or "subject to call" day and Sunday as a rest day.

He was paid on a monthly basis and his daily hours of service were 7:30 A. M. to 4:00 P. M. His headquarters were Springfield, Missouri.

On January 7, 1952, Bulletin No. 2-C was posted, advertising a position at Springfield, Missouri, for equipment repairman.

son. However, this omission is made with the distinct understanding that should the employes include in their submission to this Board any contentions with reference to such division lineman position, the carrier reserves the right to reply to such contentions and to submit evidence with respect to its position concerning such matter.

For any and all reasons fully outlined herein, carrier submits that employes' statement of claim is completely lacking in merit or agreement support and respectfully requests this Board to so find and to deny such claim in its entirety.

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.

By agreement of August 25, 1953 a new classification of "Communications Maintainer" was included in the classifications of linemen's work set out in Rule 2, without restriction as to its performance of any type of communications work set out in the rule, hence including the work performed both by Equipment Repairmen and Division Linemen.

It was provided in paragraph numbered 3 of the agreement that:

"It is understood this agreement will not operate to displace the employe assigned as Division Lineman in Springfield Terminal so long as he remains the regularly assigned incumbent of such position. If at any time he vacates the position, the Communications Maintainer may be assigned in accordance with Section 1 of this agreement."

Under date of May 5, 1955 further agreement was made as to the establishing of Communications Maintainer positions on an hourly basis, but in negotiating that agreement carrier agreed by letter dated May 2, 1955 that:

"It is understood that replacement of equipment installer or equipment repairman positions with positions of other classifications will be subject to negotiation."

C. E. Robertson, claimant in Docket No. 3495, was the employe assigned as Division Lineman in Springfield Terminal, and claims under the above quoted paragraph numbered 3. Clarence Maneke, claimant in Docket No. 3481, was a regularly assigned Equipment Repairman in Springfield and relies on the letter agreement above set out.

Effective May 1, 1958, carrier abolished the position of Division Lineman, with territory adjoining Springfield Terminal, and notified claimant Robertson that the territory of his position was being increased to include the territory of the abolished position. On the same date Claimant Maneke's position was abolished. Then a new Communications Maintainer position was established

on an hourly basis at Springfield Terminal and the employe assigned to that position was used thereafter to perform virtually all the work in Springfield Terminal formerly performed by both Robertson and Maneke.

It is not contended that the work formerly performed by Claimant Maneke had disappeared. His position as first shift Equipment Repairman was abolished and an hourly rated position of first shift Communication Maintainer was established whose duties included those formerly performed by him. This was done without negotiation and was hence in violation of the letter agreement. The fact that claimant bid in another position after his position had been abolished was not a waiver of his rights.

AWARD

Claim sustained.

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.

CARRIER MEMBERS' DISSENT TO AWARDS NO. 3615 and 3616

On or about May 1, 1958, the Carrier abolished the position of Division Lineman, with territory adjoining Springfield Terminal, and extended the territory of claimant Division Lineman Robertson. On or about the same date, the Carrier abolished claimant Equipment Repairman Maneke's position, whose duties were principally confined to Springfield Terminal, and also establishing a new position of Communications Maintainer on an hourly rate basis in Springfield Terminal.

The last sentence in the penultimate paragraph of the Findings in both Awards reads as follows:

"Then a new Communications Maintainer position was established on an hourly basis at Springfield Terminal and the employe assigned to that position was used thereafter to perform **virtually all the work in Springfield Terminal** formerly performed by both Robertson and Maneke." (Emphasis ours.)

When the majority holds that an employe on a Communications Maintainer position on a five-day, forty-hour work week assignment can absorb "virtually all the work in Springfield Terminal" formerly performed by two monthly rated employes whose monthly rates of pay comprehend 211 hours, such holding hardly finds in our estimation substantial support in the record. Notwithstanding, however, the majority nevertheless proceeds to direct the Carrier as to how it shall conduct its operations when they direct the Carrier by sustaining awards to reestablish the Equipment Repairman position at Springfield and to reestablish the assigned territory of the claimant Division Lineman at Springfield, Missouri—all contrary to the Carrier's unrestricted prerogative to make the changes mentioned in the opening paragraph.

In Award No. 2357, this Division said in part:

“We have no authority to direct a carrier as to how it shall conduct its operations.”

and in Award No. 3453, this Division again said in part:

“The claim in two parts; (a) asks that the carrier be required to ‘Cease and desist . . .’ This Board lacks authority to direct a carrier as to how it shall conduct its operation . . .”

We dissent.

M. E. Somerlott

H. K. Hagerman

David H. Hicks

P. R. Humphreys, Carrier Members