

Award No. 4092
Docket No. 3977
2-B&O-EW-'62

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Howard A. Johnson when award was rendered.

PARTIES TO DISPUTE:

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

THE BALTIMORE & OHIO RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That the Baltimore & Ohio Railroad Company violated the provisions of the current working agreement between the Carrier and System Federation No. 30, particularly Rules 29 and 125 when it assigned other than Electrical Workers employed in the Electrical Department of the Carrier to make routine electrical repairs and replace electrical equipment on elevator No. 303, located in the Northside Warehouse, Pittsburgh, Pennsylvania between December 29, 1959 and January 19, 1960.

2. That accordingly, the Baltimore & Ohio Railroad Company (hereinafter called the Carrier) be ordered to compensate electricians Jas. O. Barr and John W. Mathews (hereinafter called the claimants) for a total 32 hours each, which represents the aggregate number of hours other than Carriers' Employees were used to perform the work between December 29, 1959 and January 19, 1960.

EMPLOYEES' STATEMENT OF FACTS: At Pittsburgh, Pennsylvania, the carrier owns, operates and maintains what is generally known as the Northside Warehouse, the space therein being leased to tenants for the handling and storage of certain and various commodities transported via the carriers' lines and by means of other types of transportation as well as the distribution of these commodities by the various types of transportation. Originally, this facility was used both as a freight depot for handling the carriers' business as well as for storage facilities, but during recent years it has been utilized primarily for storage purposes and distribution of commodities received through the carriers' lines or by means of other transportation.

During the entire life of this facility, tenants were required to lease individual space, and included in such leases, certain facilities were made

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.

This claim is identical with that in Award 4091 and necessitates the same disposition.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 20th day of November 1962.

DISSENT OF LABOR MEMBERS TO AWARD NOS. 4091, 4092 AND 4093

The majority found that the work in these disputes was work included in the Electrical Workers Special Rules, but when making their Awards they ignored the provisions of the Agreement, as the pertinent parts of the rules read as follows:

"Rule 29

None but mechanics or apprentices regularly employed as such shall do mechanics' work as per special rules of each craft . . ."

"Rule 125

Electricians' work shall include electrical wiring, maintaining, repairing, rebuilding, inspecting and installing of all generators, switchboards, meters, motors and controls, static and rotary transformers, motor generators . . . inside and outside wiring at shops, buildings, yards, . . . and all other work properly recognized as electricians' work."

This Agreement was made pursuant to the Railway Labor Act, Section 2 Seven of which requires:

"No carrier, its officers or agents, shall change the rates of pay, rules, or working conditions of its employes, as a class as embodied

in agreements except in the manner prescribed in such agreements or in Section 6 of this Act."

Therefore the majority has erred in making these Awards.

T. E. Losey

E. J. McDermott

R. E. Stenzinger

C. E. Bagwell

James B. Zink