

Award No. 4249
Docket No. 4229
2-GC&SF-EW-'63

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. 97, RAILWAY EMPLOYEES' DEPARTMENT, A. F. of L.—C. I. O. (Electrical Workers)

GULF, COLORADO AND SANTA FE RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the Current Agreement Electrician D. C. Green was unjustly dealt with and the provisions of the Current Agreement were violated when the carrier assigned other than Santa Fe employed Electricians to perform Electrical Work on 52 Horse Power (H.P.) 440 Volt (V)—3 Phase (\emptyset) electric motor.

2. That under the current agreement Electrician, D. C. Green who is assigned as an armature and motor winder in the Santa Fe's large repair shops at Cleburne, Texas, was unjustly dealt with and the provisions of the Current Agreement were violated when the Carrier refused to allow him to repair this 52 H.P.-440 V, 3 \emptyset electric motor.

3. That accordingly, the Santa Fe be ordered to compensate Mr. D. C. Green as follows: (a) at his regular rate of pay for all the hours necessary to rewind and place in operation this 52 H.P. 440V. 3 \emptyset Electric motor, serial No. 886642.

EMPLOYEES' STATEMENT OF FACTS: Electrician D. C. Green, assigned as an armature and motor winder, hereinafter referred to as the claimant, is an hourly rated employe regularly employed by the Atchison, Topeka and Santa Fe Railway System, (Gulf Lines) hereinafter referred to as the carrier, in the Mechanical Department at Cleburne, Texas. The claimant is one of two of the Cleburne' electricians regularly assigned as an armature and motor winder, to wind armatures, stators, coils and other intricate electrical winding work at Cleburne. Electricians who are assigned as armature and motor winders at Cleburne, Texas, are assigned a work week

work into fields not theretofore contemplated. It is only when the carrier pursues an unusual course for the evident purpose of depriving employes of the work which they ordinarily and traditionally perform that a basis for claim exists."

In the instant case there was obviously no attempt on the part of the carrier to deprive claimant or any other employe of work which they ordinarily performed. Because the carrier did not possess the expensive machinery needed to perform the work in question which it needs so infrequently, it was necessary to have a contractor make repairs to the motor which its own employes through lack of proper equipment were unable to make in a satisfactory manner.

In conclusion, the carrier respectfully reasserts that the claim of the employes in the instant dispute is entirely without merit or support under the Agreement rules and should be dismissed or denied.

The carrier is uninformed as to the arguments the employes will advance in their ex parte submission and, accordingly, reserves the right to submit such additional facts, evidence and argument as it may conclude are necessary in reply to the employes' ex parte submission in this dispute.

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.

About June 1, 1960, the Carrier's 52 H.P., 440 Volt, 3 Phase motor used on its transfer table at Cleburne Shops failed. A standby motor was installed and Carrier contracted with the W. M. Smith Co., of Dallas, to overhaul and dynamically balance the defective motor, which they did between July 8 and 22, 1960.

The Employes contend that the work contracted out belonged to Electricians by virtue of Rules 29(a) and 92 and ask that D. C. Green, a duly assigned armature and motor winder, be compensated for the time that would have been required of him to rewind the motor and place it in operation.

The Carrier does not question the right of the Employes involved to rewind and otherwise service its motors, but asserts that it was proper to send out this particular motor to the contracting firm because it did not have the necessary equipment to dynamically balance it at Cleburne and that dynamic balancing is necessary to eliminate excessive vibration.

The Employes attempt to answer the Carrier's showing with signed statements to the effect that it was unnecessary to dynamically balance this particular type of equipment and that the motor could have been adequately balanced by them with the equipment in the Cleburne Shops.

However, it is necessary for us to point out that the Employes have attempted to make a showing of these facts for the first time in their so-called "Rebuttal Submission". Circular No. 1, promulgated by the National Railroad Adjustment Board on October 10, 1934, precluded us from giving consideration to facts initially disclosed by the Employes' Rebuttal Submission. This is a wholesome procedural rule, binding alike on the parties and this Board.

Giving consideration to the facts properly before us, we are constrained to hold that the Employes have not established a violation of the Agreement. See Second Division Award No. 2377.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 24th day of June, 1963.