



**Award No. 5481**

**Docket No. 5275**

**2-PRSL-EW-'68**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee George S. Ives when award was rendered.

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**SYSTEM FEDERATION NO. 109, RAILWAY EMPLOYEES'  
DEPARTMENT, AFL-CIO (Electrical Workers)**

**PENNSYLVANIA-READING SEASHORE LINES**

**DISPUTE: CLAIM OF EMPLOYEES:**

1. That under the current agreement the Carrier improperly assigned other than employes of the Electrical Workers Craft to rewire the old Tower Building at Atlantic City, N.J., from March 16th to April 30th, 1965, inclusive, at which time this building was completely renovated.

2. That accordingly, the Carrier be ordered to compensate the following Electricians: E. F. Behl, A. Billingshire, S. Meade, Jr., J. Merrill, F. Robinson and William Solly, divided among them the sum amounting to 16 hours each day involved at pro-rata-rate. All men named being available on their rest days, except J. Merrill, who was on furlough.

**EMPLOYEES' STATEMENT OF FACTS:** The Pennsylvania-Reading Seashore Lines, hereinafter referred to as the Carrier, maintains inspection, repair and maintenance forces at the Camden, N.J. Engine House of the Pennsylvania Railroad and the Atlantic City Terminal of the Pennsylvania-Reading Seashore Lines, Atlantic City, N.J., all employes being on one seniority roster.

Under date of May 12, 1965, we presented claims to Mr. A. P. Ruscio, Motive Power Foreman, Camden, N.J., account of assigning other than electrical workers to perform electrical work in the renovations and changes to the old Tower Building, at the Atlantic City Terminal (Old Engine House location). In the claim we listed all work performed. This letter is submitted as Exhibit A.

Under date of May 24, 1965, Mr. Ruscio replied, denying our claim saying that the work in question was assigned to the proper craft. This letter is submitted as Exhibit B.

Under date of July 12, 1965, we replied to Mr. Ruscio, this letter is submitted as Exhibit C.

Therefore, the Carrier respectfully requests your Board to dismiss or deny the claim of the Employees in this matter.

The Carrier demands strict proof by competent evidence of all facts relied upon by the Employees, with the right to test the same by cross-examination, the right to produce competent evidence in its own behalf at a proper trial of this matter, and the establishment of a proper record of all of the same.

All data contained herein have been presented to the employees involved or their representatives.

(Exhibits not reproduced.)

**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.

The fundamental facts involved in this dispute are not in issue. On specified dates during March and April, 1965, two signalmen rewired Carrier's Old Tower Building, Atlantic City, New Jersey, in connection with the renovation of said building by Carrier. Petitioner contends that Carrier violated the effective Agreement between the parties by assigning other than regularly assigned electricians to perform such work.

Carrier avers that the installation and maintenance of electrical wiring in stations and buildings throughout its system have consistently been performed by signalmen since the formation of the Pennsylvania-Reading Seashore Line approximately thirty years ago, and that no rule of the applicable Agreement or letters of understanding specifically assigns the disputed work to electricians, exclusively or otherwise. Carrier further contends that Petitioner has failed to offer any probative evidence in support of the instant claim, which should be dismissed for lack of proof.

Neither the scope rule nor any other provision of the effective Agreement specifically provides that the disputed work is exclusively reserved to electricians, and Petitioner has failed to show that Electricians have performed this work in the past anywhere on Carrier's system on an exclusive or other basis. Moreover, Carrier has offered competent evidence to support its contention that signalmen have consistently performed all installation and rewiring work in new or renovated buildings on Carrier's property for many years.

Petitioner relies on a letter of January 16, 1952 from Master Mechanic Heck to the Electricians' General Chairman as an admission by Carrier's official that all electrical work on Carrier's system belongs to Electricians. (Petitioner's Exhibit K). Analysis of said correspondence reveals its limited application to electrical maintenance work at specified locations, and

that the work involved herein was clearly not contemplated by Master Mechanic Fleck. Furthermore, Award 4445, cited by Petitioner, involved maintenance work at another location, which is readily distinguishable from the rewiring of a renovated building.

The fundamental issue found in this case is identical with that considered by this Division in our Award 5300, wherein the same parties advanced similar averments. We determined that Petitioner had failed to establish through competent evidence that the work of completely wiring a building customarily was assigned to electricians, and that employes other than electricians had performed such work for many years under similar circumstances. We find no meaningful distinction between re-wiring a renovated building and installing wiring in a new building, as both types of work are connected with construction and do not constitute maintenance work. Accordingly, we find Award 5300 controlling in the instant case under the principle of stare decisis. Therefore, the claim will be denied.

#### AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy  
Executive Secretary

Dated at Chicago, Illinois, this 21st day of June, 1968.