Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 6947
Docket No. 6810
2-MP-EW-'75

The Second Division consisted of the regular members and in addition Referee Irwin M. Lieberman when award was rendered.

Parties to Dispute: (System Federation No. 2 Railway Employes' Department AFL - CIO - Electrical Workers
(Missouri Pacific Railroad Company

Dispute: Claim of Employes:

1. That the Missouri Pacific Railroad Company violated Mr. O. B. Sayers' Letter of Understanding dated January 31, 1973 (G360-2014-1), August 28, 1973 and continuous from said date, when they deprived Mr. Daniel the provisions of Mr. Sayers' Letter of Understanding.

2. That accordingly the Carrier compensate Electrician Apprentice B. A. Daniel the difference in rate of pay between Painter Helper and Electrician Apprentice from August 28, 1973 and continuous from said date until the rate has been corrected returning same to Electrician Apprentice Daniel.

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.

Claimant herein was employed as a Painter Helper on January 27, 1972. On August 28, 1973 Claimant transferred to the Electrical Craft as an Electrician Apprentice. The rate of pay for a Painter Helper in August 1973 was $4.49 per hour while the beginning rate for an Electrician Apprentice was $4.00 per hour at that time. Claimant was paid the Electrician Apprentice rate of pay after his transfer, giving rise to this dispute.

The Organization contends that Claimant was properly entitled to bring his Painter Helper's rate of pay with him when he elected to become an Electrician

Apprentice and that Carrier violated the Letter of Understanding dated January 31, 1973 when it failed to compensate him accordingly. That Agreement provided:

> "This has reference to the Memorandum Agreement reducing the apprentice training program from a four year program to a three year program.
>
> During negotiations of the agreement, it was understood that employes in service on the effective date of the Memorandum Agreement who meet the criteria for entrance into the new apprentice training program will, upon entering the apprentice training program, be paid the rate of pay for apprentices provided by the Memorandum Agreement or the rate of pay of the position held at the time they enter into the program, whichever is greater.
>
> This understanding is intended to afford those employes now in service who formerly had an opportunity to take apprentice training through the helper apprentice program to enter the new apprentice training program without loss of earnings, but will not apply to new employes hired after the effective date of the Memorandum Agreement amending the apprentice training program."

Petitioner argues that the letter above does not specify that an employe must remain within his craft in order to enter the new apprenticeship training program without loss of earnings; it is concluded that the Understanding does not prohibit employees from another craft to enter the program and retain the rate of pay of the position held at the time, if higher than the apprentice rate.

Carrier argues that there is no provision which allows an employee of one craft to transfer to another craft and retain his former rate of pay. Further, it is contended that the Understanding, above, only provided for helpers retaining their helper rate of pay when entering the apprentice training programs with their own craft. Carrier cites Award 1905, dealing with the right of a laid off boilermaker to bid for Carmen's work. In that Award the Board held that the applicable rule only gave the claimant the preference to transfer to another position within his own craft, rather than the right to transfer to any other craft. The Carrier states that prior to the changes in the apprentice training program effective April 1, 1973, each craft had special rules which specified that only helpers in the craft were eligible to become helper-apprentices and these rules were superseded by the applicable Agreement (and Understanding) which established only one class of apprentices: regular apprentice.

At the heart of this dispute is the meaning of the term "employe" as used in the Understanding, supra. It is noted that the basic Agreement was negotiated jointly by and executed by most of the shop-craft Organizations. Historically such Agreements have been construed as separate Agreements between the Carrier and each Organization; the Agreement in the instant case contains

special rules relating to each craft as well as many rules which are common to all the crafts. In examining the rules which are common, it would be a significant departure from recognized practice to adopt Petitioner's position in this dispute. For example, Rule 11 deals with filling vacancies and states: "When an employee is required to fill the place of another employe receiving a higher rate of pay..."; certainly it was not comtemplated that such a rule would permit filling vacancies across craft lines. More significantly, Rule 45 provides, in part: "Sufficient helpers will be furnished to handle such work as required". We are certain that it would be deemed inappropriate, if a painter helper (for example) would be assigned to help an electrician under that rule. In the same context it would be inconsistent to assume that the Understanding of January 31, 1973 contemplated that helpers would retain their rates when leaving their craft for an apprenticeship program in a sister craft. Petitioner's position must either be construed broadly so as to include all employes who are helpers: e.g. Signalman Helpers or Switchman Helpers or more narrowly so as to include only helpers from the shop crafts. We do not believe that either the language of the total Agreement or past practice support Petitioner's view; the work "employe" as used in the Understanding, supra, refers to employes of each craft and is not generic to all employes of Carrier or even to employes in the other shop crafts as a group. The Claim must be denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 26th day of September, 1975.