

The Second Division consisted of the regular members and in addition Referee Kay McMurray when award was rendered.

Parties to Dispute: { System Federation No. 1, Railway Employees'
 { Department, A. F. of L. - C. I. O.
 { (Boilermakers)
 { Consolidated Rail Corporation

Dispute: Claim of Employees:

1. That under the Current Agreement Boilermaker D. R. Harris was improperly compensated on the dates of January 9, 10, 11, 12, 16, 17, 18, 19, 23, 24, 25, 26, 31, February 1, 2, 8, 9, 1978.
2. That accordingly the Carrier be ordered to additionally compensate D. R. Harris, three (3) hours pay at the applicable rate for each of the dates mentioned above.

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 waived right of appearance at hearing thereon.

The parties stipulate that they are in agreement on the following facts:

"Claimant D. R. Harris on the dates of claim held a boilermaker welders position 'A' trick with Friday and Saturday rest days. Must be qualified on burning and welding. General repairs to diesel and electrica locomotives BW-HR.

During time of claim all Boilermakers at Harrisburg Locomotive Terminal reported to foreman Schneider including Mr. Harris. On dates of claim Mr. Harris after reporting to foreman Schneider was assigned to work with foreman Kramer on the I-44 overhall program."

Claimant asserts that the Carrier violated Rule 2-A-1 (e) on the dates in contention. That rule in pertinent part reads:

"An employee moved from one position to another on the same shift, at the instance of Management, will receive an additional three (3) hours pay at the straight time rate of the regular assignment he holds for each day he is required to work on another position."

The foregoing rule is circumscribed by an agreement setting forth certain principles concerning the application of the rule. In pertinent part the agreement reads as follows:

"For the purpose of the application of this Rule an employee shall be considered as having been moved from one position to another on the same shift at the instance of Management.

1. If he is assigned to a vacancy or an advertised position other than his own and performs to a substantial degree the duties required by the vacant position.
2. If he is assigned to the performance of work not ordinarily included in his regular assignment ...
3. If he is assigned to the performance of work not ordinarily included in his regular assignment ...
4. If he is assigned to perform work whether ordinarily included in his regular assignment or not, at a location other than that of his regular assignment ... (My underlining)

Note: The term "location of his regular assignment" as used in paragraphs (3) and (4) above shall be understood to mean the location in his seniority district at which the employee performs his duties ordinarily included in his regular assignment.

The claim of violation is occasioned by the fact that a vacancy was advertised on January 8, 1978. That advertisement read as follows:

"Boilermakers Welder Vice New position. Harrisburg Locomotive Terminal 7 A.M. to 3P.M. daily except Sat. and Sun. ... Must be qualified on burning and welding General repairs to diesel and electric loco's - H.R."

The advertisement was withdrawn on January 18 and eventually the vacancy was filled on notice dated March 1, 1978.

Claimant maintains that he was filling a new vacancy on the dates in question and therefore is entitled to the claim.

The foregoing and the record reveal that the vacancy advertised fitted the description of the position held by Mr. Harris. It was in effect additional work of the same type and at the same location. During the period of time under consideration claimant worked at the same location and continued to work in the same capacity as that contained in his own bid position. Obviously items 2, 3 and 4 of the understanding on principles are inapplicable. Further, item 1 requires that the claimant "perform to a substantial degree the duties required by the vacant position." That language strongly implies that the vacancy must encompass work different from that ordinarily accomplished by the person who claims injury. Such is not the case in this claim. Grievant continued to work essentially as required in his own position and therefore cannot make a valid claim that he was filling a new vacancy. Based on the foregoing and the entire record this Board determines that the contract was not violated.

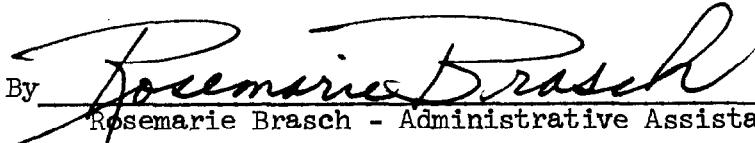
A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 25th day of June, 1980.