

The Second Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

Parties to Dispute: { International Brotherhood of Electrical Workers
{ Missouri Pacific Railroad Company

Dispute: Claim of Employees:

1. That the Missouri Pacific Railroad Company violated Rules 25 (a) and (c), 26 (a), 107 (a) and 108 of the June 1, 1960 controlling agreement when they denied Electricians R. F. Diekman, D. Ballamy, L. W. Marler, R. G. Payne, and R. W. Bonta their rights under provision of the agreement on October 11, 12, 13, 16 and 17, 1978 respectively.
2. That, accordingly, the Missouri Pacific Railroad Company be ordered to compensate:

Electrician R. F. Diekman for October 11, 1978,
Electrician D. Ballamy for October 12, 1978,
Electrician L. W. Marler for October 13, 1978,
Electrician R. D. Payne for October 16, 1978,
Electrician R. W. Bonta for October 17, 1978,

eight (8) hours pay at time and one-half (1½) rate.

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.

The Firemen and Oilers were advised of a possible third party interest, but declined to intervene.

Findings in this dispute should be read in conjunction with the Board's findings in Award No. 8852, which is incorporated herein by reference.

This claim concerns a vacancy in a Crane Operator position, owing to the illness absence of the regular holder of the position. For a period of time, the Carrier assigned Electricians to fill the position, until the position was posted as a "Temporary Position" on October 11, 1978. On that date, the Carrier assigned

an employe outside the Electrical Workers' craft to ride the bulletin until October 17, 1978, when selection for the position was to be made.

In Award No. 8852, the Board found it contrary to rule for the Carrier to select an employe from outside the Electrical Workers' craft for the position, in the face of bids by employes from within the craft, under the provisions of Rule 13 (a). By the same reasoning, there is no basis for the Carrier to select an employe from outside the craft to ride the bulletin from October 11 through October 17, 1978.

The Organization has shown without dispute that Electricians were available to perform the work during this period. Indeed, the Carrier had taken this course for a period up to October 11.

The claim will thus be sustained, but at the straight time rate rather than the time and one-half rate, since the employe did not in fact perform the work.

A W A R D

Claim sustained, but at straight time rate of pay.

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 6th day of January, 1982.