

The Second Division consisted of the regular members and in addition Referee John B. LaRocco when award was rendered.

Parties to Dispute:     { International Brotherhood of Electrical Workers  
                              { Consolidated Rail Corporation

Dispute: Claim of Employees:

1. That the Consolidated Rail Corporation (Conrail) violated the current Agreement when they used D. L. Colvin a T & T Maintainer to perform work belonging to the Radio Maintainers class from May 22, to and including May 27, 1978; May 29 - 31, 1978 (inclusive); June 1 - 3, 1978 (inclusive); June 5 - 10, 1978 (inclusive); and June 12 - 17, 1978 (inclusive).
2. That, accordingly, the Carrier be ordered to compensate T. B. Conway eight (8) hours pay at time and one half of his prevailing rate of pay for all of the dates involved in this instant claim.

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 waived right of appearance at hearing thereon.

Claimant, a Radio Maintainer at Watertown, New York, seeks eight hours of pay at the overtime rate arising out of the Carrier's alleged misassignment of work which exclusively belongs to Radio Maintainers between May 22, 1978 and June 17, 1978. During that period, Claimant was serving a disciplinary suspension. Subsequently, when Claimant appealed the disciplinary action, the Carrier's highest appeals officer completely exonerated him. The Carrier paid Claimant all his lost wages for the period of May 22, 1978 to June 17, 1978 and the discipline was removed from his record.

The Organization argues that the Carrier assigned a Telegraph and Telephone Maintainer to replace Claimant and perform all the duties of a Radio Maintainer during Claimant's absence. According to the Organization, the assignment was improper because the Telegraph and Telephone Maintainer did not have a Class II Radio License which is a condition precedent to being assigned to a Radio Maintainer position.

The Carrier denies that the Telegraph and Telephone Maintainer performed any function which requires a Class II Radio License. The Carrier concedes that a Telegraph and Telephone Maintainer did replace Claimant during his absence but only to the extent of the replacement's qualifications. Also, the Carrier contends that since Claimant's discipline was completely rescinded and he was fully compensated for the period covered by this claim, Claimant is barred from receiving further monetary relief.

We need not resolve the issue of whether or not Claimant's replacement performed work exclusively reserved to Radio Maintainers because the Claimant's subsequent receipt of all wages he lost for the period from May 22, 1978 to June 17, 1978 renders this claim moot. Even if we were to sustain the Organization's position in this claim, Claimant could not receive any more compensation than he has already received as a result of the favorable settlement he obtained on his disciplinary appeal. Thus, we must dismiss the claim.

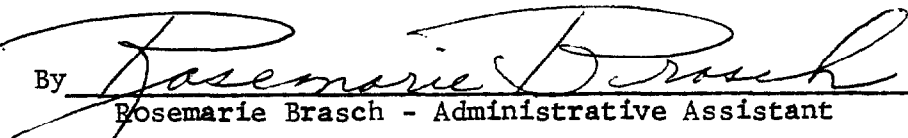
A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest: Acting Executive Secretary  
National Railroad Adjustment Board

By

  
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 21st day of April, 1982.