Form 1 NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 9255
Docket No. 8707
2-MP-EW-'82

The Second Division consisted of the regular members and in addition Referee Martin F. Scheinman when award was rendered.

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

Dispute: Claim of Employes:

1. That the Missouri Pacific Railroad Company violated Rules 1 and 24 (a) of the Communications Agreement effective August 1, 1977; Memorandum of August 12, 1960.d; and, Article III of the September 25, 1964 Agreement when they assigned Electrician D. L. Crawford to perform Communications Maintainers' work, thus, denying Communications Maintainer G. Spielbush at Kansas City, Missouri his contractual rights under the Agreements and his rights in the division of work under the Memorandum, on November 26, 1978.

2. That, accordingly, the Missouri Pacific Railroad Company be ordered to compensate Communications Maintainer G. Spielbush two and seven-tenths hours (2.7') at the overtime rate for November 26, 1978.

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 Organization contends that Carrier violated Rule 1, Scope and Rule 24, Seniority, when it instructed Electrician D. L. Crawford to remove the radio hand set from MP Unit 3101 on November 26, 1978. It also asserts that Carrier's action violated a Memorandum between the parties dated August 12, 1960. Claimant, Geln Spielbush, is a Communication Maintainer assigned to the Carriers' Kansas City Terminal Division.

This identical case was decided by this Board, involving the same parties and the same Claimant in Award No. 9254. There, we determined that Carrier's action in assigning an electrician to remove a hand radio set was improper unless Carrier demonstrated that its action was due to an emergency situation.

Here, Carrier has failed to establish that an emergency situation existed. As such, its action violated the Agreement. However, consistent with

our reasoning set forth in Award No. 9254 , no compensation is due to Claimant.

The Agreement was violated.

A W A R D

Claim sustained to the extent indicated in Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Acting Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 28th day of July, 1982.