

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
(National Railroad Passenger Corporation

Dispute: Claim of Employees:

1. That the National Railroad Passenger Corporation (Amtrak) violated the procedural provisions of Rule 24(b) of the current Agreement, as amended, effective September 1, 1975 by failing to render a decision in writing on Employees' Claim filed G-39 within the prescribed time limits.
2. That the National Railroad Passenger Corporation (Amtrak) also violated Rule 1 of the current Agreement effective September 1, 1975, as amended, the Implementing Agreement of July 8, 1976 and the Electrical Workers Classification of Work Rule effective October 15, 1960 as contained in the Agreement entered into by and between the Pennsylvania Railroad Company and System Federation No. 152 effective April 1, 1952, when on March 19, 1979 other than Electrical Workers were assigned to perform Electricians' work of installing air conditioning equipment at Carrier's Rensselaer Passenger Station in New York.
3. That accordingly, the National Railroad Passenger Corporation (Amtrak) be ordered to compensate Electrician G. E. Gathen four (4) hours at the pro rata rate of pay.

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.

This dispute results from Carrier's assignment to two Carmen the removal of the H.V.A.C. unit (Heat-Ventillation-Air Conditioning) from Power Coach No. 154 at its Albany/Rensselaer, New York facility on March 19, 1979. The Organization contends that the work should have been performed by its members.

The Organization contends that the disputed assignment should have been performed by Electricians in accordance with Rule 1 of the current Agreement between the parties; the Implementing Agreement of July 8, 1976 and the Electrical

Workers Classification of Work Rule effective October 15, 1960 as contained in the Agreement entered into by and between the Pennsylvania Railroad Company and System Federation No. 152 effective April 9, 1952.

The Classification of Work Rule provides, in relevant part:

"A. Mechanics

Electricians' work shall consist of assembling, installing, removing, maintaining, repairing, rebuilding, inspecting and testing of all current carrying, magnetic and insulated parts of generators, electrical switches..., power and bad testing of electrical equipment. Electric work on refrigeration equipment, elevators, moving stairways, electric speedometers, tachometers, work on any generator and axle lighting equipment, train control, electric brakes, air conditioning equipment, roadway equipment."

In the Organization's view, the removal of air conditioning units is clearly covered under the Classification of Work Rule. Since the rule is specific as to this type of work, all removal of H.V.A.C. units belongs to Electricians by the very language of the Agreement.

In addition, the Organization contends that its claim was untimely denied in two separate stages on the property, in violation of Rule 24(b) of the Agreement. That rule provides:

"If a disallowed claim or grievance is to be appealed, such appeal must be in writing and must be made within 60 calendar days from receipt of notice of disallowance. Failing to comply with this provision, the claim or grievance shall be considered closed. If the Officer to whom the appeal is made fails to render a decision in writing within 60 calendar days of date of appeal, the claim or grievance shall be allowed as presented."

According to the Organization, this claim was filed on March 19, 1979 and denied on May 21, 1979, more than sixty days after filing. In addition, the Organization appealed Carrier's Facility Manager's decision on May 31, 1979. That appeal was denied by the Regional Manager of Labor Relations on August 22, 1979, again more than sixty days after the appeal was filed. Thus, in the Organization's view, Carrier has twice violated the sixty day requirement of Rule 24(b).

Carrier, on the other hand, maintains that its denials of the claim were made in timely fashion. It notes that the original claim was not received until April 19, 1979. Thus, its answer on May 21, 1979 was well within the sixty day limit. Second, its the response of the Regional Manager of Labor Relations was made within sixty days of Organization's letter of August 8, 1979, wherein the Organization contended that Carrier has not timely responded to its May 31, 1979 appeal. Until August 8, 1979 Carrier had been led to believe that the

Organization desired to docket the claim for a conference. When it learned that the Organization no longer wished to discuss the claim, Carrier promptly issued its denial of the Organization's appeal.

On the merits of the claim, Carrier asserts that there is no specific rule which reserves to Electricians the right to remove air conditioning equipment. Thus, the Organization must show that this work has traditionally been performed by Electricians. In fact, Carmen have customarily removed air conditioning units from power coaches. Therefore, according to Carrier, the work in question does not belong to Electricians and the claim should be denied.

The facts in this case are identical with those in the companion case, Award No. 9336, decided herewith and issued this same date. In that case, we found that Carrier had not violated either the substantive or procedural rights of the Organization. For the reasons set forth therein, we deny the claim.

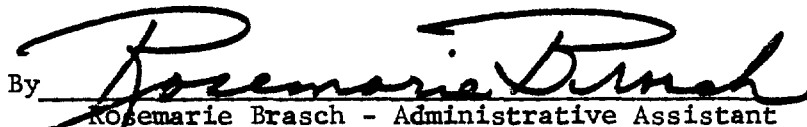
A W A R D

Claim denied.

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 5th day of January, 1983.