

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  
(  
( Chicago, Milwaukee, St. Paul and Pacific Railroad Company

DISPUTE: CLAIM OF EMPLOYEES:

1. That the Chicago, Milwaukee, St. Paul and Pacific Railroad Company violated the current agreement on June 12, 1979 when it improperly assigned Foreman Patrick Jaskolski to perform electrical work instead of Electrician Patrick Fortier, who should have properly been assigned to the work herein claimed.
2. That the Chicago, Milwaukee, St. Paul and Pacific Railroad Company be ordered to compensate Electrician Patrick Fortier for eight (8) hours at time and one half at the rate of \$8.68 per hour, which comes to a total of \$104.16.

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 employes 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.

On June 12, 1979, night shift Diesel House Foreman, Patrick Jaskolski, was held over by Carrier to work the entire shift. The Organization claims that Jaskolski performed electrical craft work during this day shift. It asserts that Jaskolski repaired MP-15 AC Locomotive #453. Accordingly, the Organization asks that Carrier compensate Claimant, Patrick Fortier, for the eight hours at the overtime rate.

Carrier, on the other hand, asserts that it did not violate the Agreement. Throughout the handling on the property, Carrier insisted that the disputed work was performed by Electrician Ronald Heyden.

The relevant provisions are Rules 53 and 71. They state:

"Rule 53. None but mechanics or apprentices regularly employed as such shall do mechanics' work as per special rules, except foremen at points where no mechanics are employed.

This rule does not prohibit foremen in the exercise of their duties to perform work."

"Rule 71 -- Classification. Electricians' work shall include electrical wiring, maintaining, repairing, rebuilding, inspecting and installing of all generators, switchboards, meters, motors and controls, rheostats and controls, static and rotary transformers, motor generators, electric headlights and headlight generators, electric welding machines, storage batteries (work to be divided between electricians and helpers as may be agreed upon locally), axle lighting equipment, all inside telegraph and telephone equipment, electric clocks and electric lighting fixtures; winding armatures, fields, magnet coils, rotors, transformers and starting compensators; inside and outside wiring at shops, buildings, yards, and on structures and all conduit work in connection therewith (except outside wiring provided for in Rule 72), steam and electric locomotives, passenger train and motor cars, electric tractors and trucks; include cable splicers, high tension power house and substation operators, high tension linemen, and all other work properly recognized as electrician's work."

This claim must be denied. Stated simply, the Organization has failed to meet its burden of establishing that Jaskolski performed any work which belonged to covered employees. While the record is replete with assertions that Jaskolski did more than merely supervise Hayden, the fact remains that there is absolutely no evidence to substantiate those assertions. We have repeatedly ruled that an organization must supply probative evidence to support a claim that a supervisor performed bargaining unit work. Awards 4350, 6878, 8016 and 9004. No such evidence is present here.


Accordingly, we must deny the claim in its entirety.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

ATTEST:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 30th day of November 1983.