

The Second Division consisted of the regular members and in addition Referee John J. Mikrut, Jr. when award was rendered.

Parties to Dispute: (International Brotherhood of Electrical Workers
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(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 effective September 1, 1949, in particular Rules 53 and 71 on March 16, 1981 and thereafter when it improperly assigned Foremen Prosser and Digioia to perform electrical work.
2. That the Chicago, Milwaukee, St. Paul and Pacific Railroad Company be ordered to compensate Electrician Michael Dandre for eight (8) hours at the current rate of pay for each day commencing with March 16, 1981 and ending the date when the violation has ended, both dates inclusive.

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.

Claimant was assigned for approximately thirty (30) years as an Electrician on the third shift at Carrier's Western Avenue Coach Yard in Chicago, Illinois.

On March 16, 1981, Carrier abolished Claimant's position allegedly because "...there was no need for an electrician on the third shift". Subsequently, however, some of Claimant's job duties (specifically disconnecting and applying 480 volt cables on three (3) passenger trains 2201, 2203 and 2205) were assigned to two (2) Foremen and were performed by said Foremen on various occasions thereafter.

On April 16, 1981, a continuing claim was filed by Organization on behalf of Claimant which alleged that Carrier violated Rules 53 and 71 of the current Agreement when it improperly assigned supervisory personnel to perform electrical craft work.

Organization's basic position in this dispute is that the work which was performed by the two Supervisors was Electricians' work. According to Organization, "(T)he work of disconnecting and applying 480 volt cables on these cars is and always has been exclusively performed by electricians at the Coach Yard". Organization contends that Carrier's assertions that the third shift Electrician's job was only maintained for "security reasons" is absurd and cannot be accepted because Claimant's job duties throughout the time of his assignment was to test and maintain the trains.

Lastly, Organization argues that Carrier's contention that the disputed job duties were not exclusively performed by Electricians is false and, similar to Carrier's overall position herein, is not supported by any factual evidence whatsoever.

Carrier maintains that Claimant's position was abolished because no electrical work was being performed on the third shift. According to Carrier, the primary reason for having an Electrician on the third shift for the past several years "...was for security reasons, which was not work exclusively assigned to electricians"; and "...the work of applying and removing 480 volt yard standby cables is not exclusively that of electricians" (Second Division Award 1996).

As a related matter, Carrier also argues that Claimant did not lose any wages due to the abolishment of the third shift Electrician's position because Claimant exercised his seniority and secured another position in his Seniority District; and since there existed an open Electrician's position on March 16, 1981, there were no Electricians furloughed as a result of the abolishment. Carrier further argues that "...Claimant was fully under pay, and did not lose any earnings..." and also that Claimant voluntarily retired from the service of the Carrier on April 28, 1982. Therefore, Carrier contends that the "...monetary portion of this claim represents a penalty payment which is not supported by any schedule rules or agreements" and thus cannot be authorized because "...Claimant can recover no more than the loss he has suffered and of which he may rightfully be entitled...(and)...(H)e is not entitled to be enriched" (See: Third Division Awards 17709, 16691, 15062, 14981 and 13958).

The Board has carefully read and studied the complete record in this dispute and concluded that Carrier's position herein is correct and, therefore, must prevail.

Although there is no doubt that Claimant's position was abolished and that certain job duties which were once performed by him were thereafter performed by supervisory employees, Organization has only produced evidence to show that said job duties consisted of applying and removing the 480 volt stand-by cables. No evidence whatsoever has been adduced by Organization to demonstrate that the Supervisors performed any other job tasks which were originally performed by Claimant and which were exclusive to his classification.

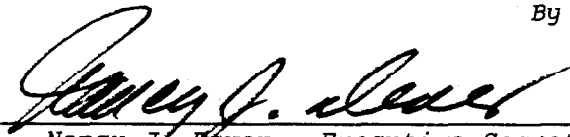
Apart from the critical concern that the contested duties accounted for an extremely small portion of Claimant's overall job duties, Organization has completely failed to address the issue of the decision in Second Division Award 1996 (which, interestingly is a case which involves the same parties and, for all intents and purposes, the same issue as that involved in the instant case). In that decision it was concluded that, "(T)he simple act of handling electrical equipment does not constitute maintenance, repair or inspection within the contemplation of Rule 71". The present Board is compelled to follow Award 1996 and concludes that the applying and removing of the 480 volt stand-by cables is not work which is exclusive to the Electricians' classification.

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 20th day of March 1985.