

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
(
(Consolidated Rail Corporation

Dispute: Claim of Employees:

1. That at the Reading Rip Track on March 19, 1980 the Consolidated Rail Corporation (Conrail) violated the controlling agreement when Carmen M. Planer and W. Lemanek were assigned to remove defective batteries and install new batteries in caboose # CR22909 instead of calling Electricians C. Long and J. Rishell who were available to perform these duties.
2. That Electricians C. Long and J. Rishell be compensated for three (3) hours each at the overtime rate by reason of Carmen craft performing electrical work.
3. That the General Superintendent at the Conrail Reading Shops arbitrarily changed the agreement when he refused to assign electricians to perform work of their craft that originated from the Reading Rip Track, a location where they had been doing all electrical work for over thirty (30) years.

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 employees 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.

Claimants C. Long and J. Rishell are classified as electricians at Carrier's Reading, Pennsylvania Car Shop and were normally assigned to work at the Freight Car shop.

On March 19, 1980, Carmen M. Planer and W. Lemanek, who were assigned to work at the Rip Track, were directed to remove defective batteries and install new batteries on caboose #CR22909. The Organization contends that said assignment was in violation of Rule 5-F-1 (b) and should have been performed by

Claimants because such duties were included in the Electrical Workers Classification of Work Rule and had been performed by electricians for over thirty (30) years.

Carrier essentially argues that the Reading Rip Track was an "out lying point" and that, as such, said action was protected by Rule 5-F-2.

In any case which is brought before this Board it is necessary that the facts which are critical to the resolution of the dispute are presented in a clear and complete manner. The responsibility for such minimal performance rests with the moving party. In the instant case, which is a rules case, the moving party is the Organization, and, upon reviewing the complete record in this dispute, it is clear that the Organization has not met this responsibility. Of particular significance is the fact that the Organization's articulation of the facts fails to establish where the contested work was performed. In this regard, the Organization's Submission states as follows:

"As a result on March 19, 1980, Rip Track Carmen were assigned to remove and replace batteries on Caboose #CR22909. Rip Track General Foreman had Caboose #CR22909 placed on the track adjacent to the Freight Car Shop where the Rip Track Carmen acquired the new batteries for installation and deposited the scrap batteries" (Emphasis added by Board).

Elsewhere throughout its Submission, however, as well as in the Statement of Claim itself and in numerous exhibits which were also included in the record, the Organization contended that the disputed work was performed by Carmen Planer and Lemanek at the Reading Rip Track.

The aforestated discrepancy is critical to the resolution of the instant dispute; and a determination cannot be made unless the matter is resolved. As the moving party in the instant case, Organization's failing is fatal.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Decker - Executive Secretary

Dated at Chicago, Illinois, this 5th day of June, 1985