

The Second Division consisted of the regular members and in addition Referee George S. Roukis when award was rendered.

Parties to Dispute: (International Brotherhood of Electrical Workers
(Consolidated Rail Corporation

Dispute: Claim of Employees:

1. That under the current Agreement the Consolidated Rail Corporation (Conrail) improperly assigned others to cut down and remove communications poles at M. P. 154 to M.P. 155 on January 2, 1981, and that such work is work of the line gang.
2. That accordingly, the Consolidated Rail Corporation (Conrail) should be ordered to compensate the Claimants who are Gang Leader R. J. Zmayefski, Gang Linemen D. Winward, R. Selva and K. Rock, an additional eight (8) hours' pay at the applicable Gang Lineman and/or Leader rate, straight time.

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.

In this dispute, the Organization argues that Carrier violated the controlling Agreement when it assigned a District Lineman to cut down and remove poles between Mileposts 154 and 155 on January 2, 1981. Claimants are headquartered at Worcester, Massachusetts. The Organization asserts this action violated Appendix No. 6 of the former January 1, 1948 Agreement as amended and Carrier's acknowledged understanding that removing poles is construction work belonging to Gang Linemen. It avers that Carrier's letter of February 1, 1980 written by the Manager of Labor Relations sustaining a previous similar claim is dispositive of its position.

Carrier maintains the claim is invalid since the Organization failed to cite any specific rule violation. It asserts that Rule II detailing the duties of the Electrical Workers classification includes the responsibilities of building, repairing and maintaining pole lines, but observes that these duties are granted to the Electrical Craft as a whole. It contends that the Organization has not presented evidence depicting a systemwide showing that such work has been traditionally assigned to Gang Linemen; and argues that absent such a showing, a distinction cannot be made that Gang Linemen exclusively removed poles.

In our review of this case, we agree with Carrier's position. The Organization has not identified a specific Agreement rule that unmistakably reserves this work to the Gang Linemen or any demonstration that cutting and removing trees was solely performed by these forces. Admittedly, Carrier's letter of February 1, 1980 sustaining a similar claim is a persuasive indicator of interpretative intent, but it is not reflective of a system wide practice. Without such a showing, particularly under the circumstances where an explicit rule does not grant work exclusivity and Carrier argues that cutting and removing poles is not exclusively Gang Linemen's work, the Board has no defensible basis for affirming the petition.

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 10th day of July 1985.