

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 11553
Docket No. 11383
88-2-87-2-47

The Second Division consisted of the regular members and in addition Referee Marty E. Zusman when award was rendered.

PARTIES TO DISPUTE: (International Brotherhood of Electrical Workers
(Northeast Illinois Regional Commuter Railroad Corporation)

STATEMENT OF CLAIM:

1. That the Northeast Illinois Railroad Corporation violated the current agreement, particularly Rules 28(a) and 104, when it improperly assigned Electrician Helpers S. Jarmoluk and J. Strange to perform electrical craft work without a Journeyman present at the 47th Street Complex on the dates of October 28, 29, 30 and 31, 1985.

2. That the Northeast Illinois Railroad Corporation be ordered to compensate Claimant J. L. McDonald for sixty-four (64) hours at the straight time rate.

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 the case at bar, the Organization asserts that work of the electrical craft associated with installing high voltage wiring was performed by two Electrician Helpers without a Journeyman Electrician present, in violation of Rules 28(a), 101 and 104. Rule 104 requires Electrician Helpers to "assist electrical workers" (emphasis added). Rules 28(a) requires that "none but mechanics or apprentices regularly employed as such shall do mechanics' work..." Rule 101 states in pertinent part that:

"Electricians work shall consist of ... inside and outside wiring at shops, buildings, yards and on structures and all conduit work in connection therewith,... including company owned power line work in shops and yards..."

The Organization has presented in this record probative evidence which indicates that two Electrician Helpers were observed working alone doing electricians work on October 28, 29, 30 and 31, 1985.

The Carrier does not deny that the Electrician Helpers were performing work of the Electricians craft. Nor does the Carrier specifically deny that such work was involved with the wiring and installing of electrician power cable. However, the Carrier argues that such work was within the Rules as Helpers were assisting an electrical worker in the performance of his duties. They were therefore, not working alone.

A review of the record establishes that the assigned Electrician had "laid out and reviewed" the work in progress which was under his direction. Carrier maintains that although the Electrician "was not necessarily present at all times," the work performed in his absence by Helpers was:

"nontechnical" .. "consisting of trenching through concrete and hard track ballast...The tools were picks, shovels and large air hammers."

The central issue therefore before this Board is that of working alone. The Organization asserts that the Electrician Helpers did electrical work. The Carrier by letter of May 12, 1986 names the Electrician to whom the project was assigned and to whom the Electrician Helpers were assisting. The Organization does not refute this essential point. It must be considered by this Board as fact. The Organization argues without Carrier denial that the Electrician was not always present, but such is not required by the Agreement.

Herein the burden of proof lies with the Organization to provide substantial probative evidence that the Helpers did electrical work without a Journeyman Electrician supervising, directing and assigned to the work. The evidence of record indicates that the project was ongoing and that the work was the responsibility of Electrician Tripoli. Nowhere has the Organization shown that Electrician Helpers worked under their own responsibility, but only that they were at times alone. Nowhere does the Organization deny that Journeyman Electrician Tripoli was there at the project. The evidence in the instant case is insufficient to substantiate a violation of the Rules as written. This finding is consistent with Second Division Award 11174.

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 31st day of August 1988.