

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

PARTIES TO DISPUTE: ((International Brotherhood of Electrical Workers
(Union Pacific Railroad Company

STATEMENT OF CLAIM:

1. That the Union Pacific Railroad Company violated the controlling agreement, particularly Rules 32 and 122, when they assigned Electricians' work of testing and inspecting coded cab signal equipment to a Machinist on September 25, 1985, at Argo Washington Terminal.

2. That accordingly, the Union Pacific Railroad Company be ordered to compensate Electrician Ed Bexton in the amount of two hours forty minutes (2'40") at the overtime rate as he was available to perform this work had he been called.

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.

The case involves the testing of coded cab signal equipment. The Carrier assigned this test to an employee of the machinists' craft on September 25, 1985, at their Argo, Washington terminal. The Organization claimed that Rules 32 and 122 were violated--they are reproduced below:

"Assignment of Work

Rule 32. None but mechanics or apprentices regularly employed as such shall do mechanics' work as per special rules of each craft, except foremen at points where no mechanics are employed.

At points where mechanics are employed, foremen may give instructions in the normal performance of their duties.

At outlying points (to be agreed upon) where there is not sufficient work to justify employing a mechanic of each craft, the mechanic or mechanics employed at such points will, so far as

capable, perform the work of any craft that may be necessary.

(Note: For modifications of this rule, see Articles III and IV of September 25, 1964 Agreement - Appendix 4.)"

"Rule 122. Classification of Electricians.

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), 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 123) 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 line men, maintenance of automatic train control, automatic cab signal equipment and all other work properly recognized as electricians' work."

The Organization argued both Rules are clear and Rule 32 provides that electricians shall perform work per the rules of their craft. It further contended that the Argo, Washington terminal was not an outlying point since there is sufficient work and it was not agreed by the Organization to be an outlying point, as called for in the Rule. Rule 122 states in pertinent part:

"Electricians' work shall include electrical wiring, maintaining, repairing, rebuilding, inspecting...automatic cab signal equipment and all other work properly recognized as electricians' work."

The Organization cited Awards which stated that work clearly contained within the scope of an agreement cannot be removed from employees under that agreement and given to other employees. The Organization noted that the Carrier established a school to train electricians in this equipment and that, even though it admits that there may have been a practice, this practice does not supersede the clear language of the Agreement. The Organization contended that the International Association of Machinists had the opportunity to protect this work for its craft but declined to do so. The Organization argued that the words "test" and "inspection" are synonymous terms, and that since this is not an outlying point and the Scope Rule is clear and unambiguous, the Board would have no choice but to sustain the claim.

The IAM was notified of this dispute. If chose to neither claim

nor disclaim the work.

The Carrier contended that where the assignment of work is in dispute, it is the Organization that bears the burden of proof to show that it is entitled to the work either based on a clear reading of the Scope Rule or an exclusive systemwide past practice. The Carrier contended that the Organization has not met its burden in either case. The Carrier noted that the word "test" with respect to coded cab signal equipment does not appear in the Scope Rule. The Organization did not dispute that there was no wiring or maintenance or repairing or rebuilding involved. The Organization contended that inspection and testing are synonymous terms, and the Carrier disputed this claim. The Carrier stated that there is a practice of other crafts performing this work, and this was not disputed by the Organization. Just because some electricians were sent to a school regarding this equipment does not necessarily mean that the work exclusively accrues to the electrical workers and not to other crafts. The Carrier also noted that this is very simple work that is typically performed in only five minutes and has given a listing of the responsibilities for the test which are reproduced below:

1. Set hand brake.
2. Reversor handle must be placed in the forward position.
3. GE units only - Generator field switch must be in the ON position.
4. Observe that the green (180 Code) indication is obtained.
5. Observe next signal change to yellow over green (120 Code) and operate acknowledge switch to silence audible indicator and forestall penalty brake application.
6. Observe signal change to yellow (75 Code) and operate acknowledge switch to silence audible indicator and forestall penalty brake application.
7. Observe signal change to red over yellow (No Code) and operate acknowledge handle to silence audible indicator and forestall penalty brake application.
8. Observe signal change to green indication and place reversor handle in neutral. Measure the elapsed time from when the signal indication changes to red over yellow until a penalty full-service brake application is initiated. Initiation of the penalty application occurs at drop-out CCS-SC magnet valve. This time interval must not exceed eight (8) seconds.
9. After penalty application occurs, observe rate of brake pipe reduction. Move automatic brake handle rapidly to the emergency position and observe that the brake pipe reduction rate increases.
10. Determine that main switch and cut-out cock is sealed.
11. Record seal numbers on Form 2415.
12. Place one (1) copy of Form 2415 (white card) in provided locomotive receptacle.
13. Place one (1) copy of Form 2415 (white card) on file.
14. Remove and discard all outdated Form 2415.

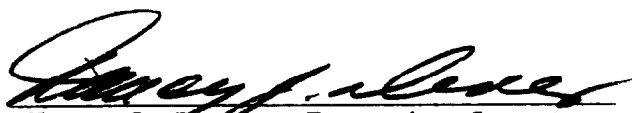
The Board finds that a practice existed of allowing both the members of the electrical workers' craft and the machinists' craft to perform the test on the coded cab signal equipment. The Organization's contention of potential FRA violations cannot affect the Board's decision since the Board has no authority in this area. Likewise, the Board is not persuaded by the Carrier's argument that the test is not a sophisticated one but a simple one that takes a short period of time. It is in a review of the Scope Rule where the Organization fails to meet its burden in this case. The Board notes the word "test" is not contained in that Rule, and certainly the procedures of the test which were noted above do not include any electrical wiring or maintaining or repairing or rebuilding or installing of the equipment. The Organization has argued that the words "inspecting" and "testing" are synonymous. The Board simply cannot buy this argument. Even the General Chairman in his letter of June 9, 1987, felt constrained to use both terms, inspecting and testing, in trying to describe the work. The words are different and, at best, the Scope Rule is ambiguous. The fact that the Carrier has paid claims at another point does not affect the outcome of this case --neither does the fact that the International Association of Machinists does not either claim or disclaim the work. The Board finds that the Scope Rule is ambiguous and does not clearly provide for the electricians' craft to test this equipment. The practice at the point is mixed, and therefore, the claim will be denied.

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 7th day of December 1988.