Form 1 NATIONAL RAILROAD ADJUSTMENT BOARD Award No. 11648
SECOND DIVISION Docket No. 11436
89-2-87-2-81

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
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(Burlington Northern Railroad Company

STATEMENT OF CLAIM:

1. That in violation of the current Agreement and the Burlington Northern Railroad Safety Rules and General Rules (Form 15001 8/81), Burlington Northern Supervisors, over the objections of Electrician Martin Jones his Local Union representative, did require Electrician Jones to unnecessarily perform work under unsafe conditions.

2. That accordingly, the Burlington Northern Railroad be ordered to instruct its Supervisors to apologize to Electrician Jones in writing and to take a more cautious approach in matters involving safety.

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.

This claim has been progressed to the Board alleging violation of Rule 45 of the Agreement and four Safety Rules. The Organization alleges that the Carrier disregarded the safety of the Claimant when it required him to perform electrical repair work under adverse conditions on a tower which was thirty to forty feet high. The Organization argues that there was no urgency to the part replacement and that the employee was ordered to work under conditions of cold freezing rain with over thirty mile an hour winds.

In the instant case, the Carrier acknowledges that weather conditions were not ideal, but states they were acceptable. It points out that all necessary safety equipment was available and the work was completed without incident.

This Board has carefully looked at the Rules cited in the instant case and concludes that the Claim was progressed without necessary Agreement support. Rule 45(h) pertains to safety while working "around locomotives or cars where there is a likelihood of the equipment being moved..." Nothing in that Rule or in paragraph (h) which the Organization relies upon, relates to the events and dispute at bar. Furthermore, Carrier's Safety Rules are not collective bargaining agreements. The Board finds no specific negotiated rule relating to these circumstances. The Board also finds insufficient evidence that adverse weather conditions made such work unsafe. Upon full review of the record, we conclude that the Claim is not covered by the Rules of the Agreement and the Board has no authority under the Railway Labor Act to reach a decision (Second Division Award 11342; Third Division Awards 23041, 20541).

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 8th day of February 1989.