

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
(Burlington Northern Railroad Company

STATEMENT OF CLAIM:

1. That in violation of the current Agreement, the Burlington Northern Railroad Company improperly assigned work which by contract language and historical past practice belongs to Shop Electricians on date of June 14, 1987.

2. That accordingly, the Burlington Northern Railroad Company be ordered to compensate Shop Electrician T. E. Thorpe of Memphis, Tennessee eight (8) hours' pay at the punitive rate for the violation.

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 dispute centers on an asserted violation of the Organization's Classification of Work Rule (Rule 76), namely that Carrier improperly assigned two (2) Machinists to connect and disconnect train line wires between various diesel locomotives at the diesel shop at Memphis, Tennessee on Sunday, June 14, 1987. It was the Organization's position that said work was clearly covered by Rule 76 and further established by several on-situs crafts, including the Machinists Organization, who acknowledged via written affirmations that the work of connecting or disconnecting of jumper cables between locomotives was historically and exclusively performed by Electricians at Memphis, Tennessee. It referenced Award No. 6 of Public Law Board No. 3502 between the IBEW and the Seaboard System Railroad as on point and controlling.

In rebuttal, Carrier maintained that said work was unskilled and unassigned labor and not within the umbrella coverage of Electricians exclusivity as defined by Second Division Awards 2223, 2413 and 7461. It also observed that since March, 1986 no Electrician was employed at Memphis on Sundays during the 7:00 A.M to 3:00 P.M. shift and advised that any work dispute should be handled under the provisions of Rule 27(e). As the Claim progressed on the property there was no further substantive explanation as to what precise sum total work was performed by the Machinists or the duration of such work. It wasn't until the Claim was appealed to the Division that we get a fuller picture of what occurred. In effect, the Machinists were directed to set out three (3) locomotives from a five-unit locomotive consist and to conduct a power check, referred to as a control load test, of the assembled two-unit consist. In its Statement of Facts, the Organization characterized such work as the initial electrical preparation and hookup, which included the connecting and disconnecting of cables necessary for the load testing of the locomotives so as to inspect and determine if electrical adjustments or repairs were needed before the locomotive consist was placed on the line of road.

In reviewing this case, the Board takes judicial notice that the Machinist Organization filed a Third Party Submission wherein it did not disclaim the work in dispute or support either of the parties positions. It merely iterated its normative rights under its Collective Bargaining Agreement. We have considered the parties substantive positions, but must note that Carrier's Submission contained arguments and information that was not exchanged on the property. We do not agree that the matter should have been handled as a craft jurisdictional dispute under Rule 27(e), since the competing organizations did not contest the Electricians claim to such work at the Memphis situs. In fact, several organizations conceded this particular work to the Electrician's craft and did so while the Claim progressed on the property. To be sure, we recognize that connecting and disconnecting jumper cables between locomotives could under certain circumstances be considered as incidental work and be performed by other crafts, but the specific work herein, involving a controlled load test of the two-unit locomotive consist was historically performed by Electricians at the Memphis situs. As such, and since there were no dispositive indications that since March, 1986 crafts other than the Electricians performed this work on Sundays during the 7:00 A.M. to 3:00 P.M. shift with the Electricians acquiescence, we will sustain with modification the Organization's petition. Since the Organization has not shown how long the work actually took, at least to our satisfaction, we will award Claimant two (2) hours compensation at the straight time rate.

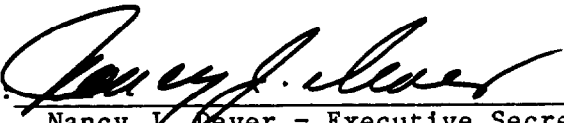
A W A R D

Claim sustained in accordance with the Findings.

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Award No. 11968
Docket No. 11641-T
90-2-88-2-117

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: 
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 19th day of December 1990.