

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 12351
Docket No. 12296
92-2-91-2-90

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

STATEMENT OF CLAIM:

IBEW Grievance J-18-89: This union is protesting the Carrier advertising Bulletin #055, Position #15059282600807. The Carrier is violating the Rules 2-A-4(b) and past practice by advertising this position with two major duties. Prior to the advertisement of this bulletin, the Carrier abolished under Past Practice that both East and West Gantry Cranes would be separate duties. This is proven by the way the Carrier advertised said positions prior to December 20, 1988. As of this date the Carrier abolished the two crane operating positions and combined the operation of both cranes to one employee. This union is stating that this position must be abolished and re-advertised as two separate cranes.

This claim is subject to Rule 4-P-1.

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 basic facts of this case are set forth as follows: By bulletin notice dated December 28, 1988, the Carrier advertised Position No. 15-059-2826-0080-7. This was a Crane Operator's position whose major duties were to operate "Wheel Shop Gantry Cranes." By letter dated February 14, 1989, the Organization contested this advertisement on the grounds that Carrier's actions violated Rule 2-A-4(b) and past practice. Its Claim letter read in part:

"Prior to the advertisement of this bulletin, the Carrier established under Past Practice that both East and West Gantry Cranes would be separate positions. This is proven by the way Carrier advertised said positions prior to December 28, 1988. As of this date Carrier abolished the two crane operating positions and combined the operation of both cranes to one employee. This Union is stating that this position must be abolished and re-advertised as two separate positions. This claim is subject to Rule 4-P-1."

By letter dated April 10, 1989, Carrier asserted the position was properly bulletined under Rule 2-A-1 and denied the Claim.

The Organization rejected this defense by letter dated April 11, 1989, and noted its decision to docket the dispute for the next monthly meeting on "May 17, 1989." (Meeting actually held on April 17, 1989.)

By letter dated December 7, 1989, Carrier reiterated its Claim denial, but pointedly maintained that the advertising of the east and west gantry cranes under one position was not to be construed as two major duties since the operation of both cranes required the same job skills. It added:

"Nor is it a violation of the schedule agreement for the Corporation to change a job description wherein it becomes obvious that production needs do not precipitate the need for two crane operators."

The Local Chairman and the Manager of Labor Relations entered into a joint submission on December 26, 1989, and the Organization progressed further appeal to Carrier's highest appeals officer by letter dated August 7, 1990. His letter reiterated the same positional arguments.

By letter dated November 8, 1990, Carrier again rejected the Claim, but noted in particular, that the position did not encompass two major duties. The highest appeals officer, wrote in pertinent part:

"The function of the wheel shop gantry cranes was to load and unload wheels. However, due to a decline in work, it was determined that two operator positions for the two cranes were not necessary. Therefore, the operator positions were abolished and one new position was advertised with the major duty "to operate wheel shop gantry cranes." Thus, the Carrier was in compliance with Rule 2-A-1(b)."

It also observed: "Finally, the Carrier must be able to utilize its employees in the most efficient manner. To do otherwise would be a waste of company resources. There was sufficient work for only one crane operator and the Carrier acted to reduce its forces accordingly." The General Chairman rejected this position by letter dated January 7, 1991 and asserted that the matter called for a decision in favor of the Organization. The dispute was appealed to the Board.

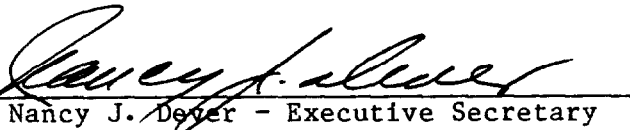
In considering this dispute, the Board concurs with Carrier's positions. We have carefully reviewed the record's fact specifics within the context of Rules 2-A-1(b) and 2-A-4 and cannot conclude that said rules were violated. There is plainly no functional operational distinction between operating a wheel shop gantry crane, whether it is the east or west crane. The major duty in either case is to load and unload wheels. Further, since there is no explicit Agreement provision that would bar Carrier from abolishing the two crane operator positions and creating the contested new position, we cannot estop Carrier from reorganizing its work assignment consistent with the imperatives of a changed operational environment. Accordingly, we must deny the Claim.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Deyer - Executive Secretary

Dated at Chicago, Illinois, this 10th day of June 1992.