

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 12370
Docket No. 12336-T
92-2-91-2-123

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:

1. Date - December 18, 1987, Grievance No. J-148-87, Claimant Ron Johnston, Man #538276, General Foreman O. G. Leap; Location - Harrisburg Car Shop.

This union charges management with the violation of the Controlling Agreement specifically Classification of Work Scope, Past Practice, when on October 20, 21, 22, 23, 26, 27, 28, 29, 30 and November 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 1987 the Carrier assigned work that only the IBEW has equity in to others than Electricians. The Carrier used BRAC employees to operate the Storehouse crane when the Carrier arbitrarily abolished the Electrician Crane Operator position and then assigned that work to others than Electricians on the above stated dates. (See Exhibit "A", page 2 as to times and personnel.) The Carrier installed radio controls on the Storehouse crane and then gave work that was always performed by the crane operator to the personnel named in Exhibit "A", page 2. The Claimant, who works the second shift at the Hollidaysburg Car Shops, should have been called in to perform the operation of the Storehouse Crane.

Therefore this Union is asking for eight (8) hours pay for each of the above stated dates for a total of 152 hours pay at the Claimants pro-rata rate of pay for the above stated violation.

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.

As Third Party in Interest, the Transportation Communications International Union was advised of the pendency of this dispute, but did not file a Submission with the Division.

The Organization charges that when Carrier installed radio controls on the overhead crane located in the Storehouse area of the Hollidaysburg Car Shop and assigned the operation of said crane to clerks represented by the Transportation Communications Union, said assignment spanning nineteen identifiable days during October-November, 1987, violated the Electrical Workers (IBEW) Classification of Work Rule and past practice. The Organization asserts that notwithstanding the modification of the crane so that it could become radio-operated, the modified crane in all other respects, function and purpose remained the same; that is, an overhead travelling electric crane, but with its cab controls operated by radio. Specifically, it observes that Section A of the Classification of Work Rule clearly reserves the operation of cab equipped travelling cranes to Electricians and references Second Division Award 8979 as controlling authority. In that Award where a cab operated overhead crane was changed to pendant controlled, the Board found that since the Organization was able to establish that electricians operated both pendant controlled cranes and cab operated cranes at the facility in question, the electricians were entitled to operate it.

Carrier points out that since the cab-operated overhead crane was converted to a radio-controlled, floor-operated unit in October, 1987, the crane was used by TCU represented employees incident to their duties of loading and unloading of storehouse materials. It maintains that as a result of the conversion, Section B of the Electrical Workers' Classification of Work became applicable and, thus, it was permissible for employees other than Electrician Helpers to operate floor-operated cranes incident to the performance of their duties. Since the Storehouse employees (clerks) represented by the TCU were loading and unloading storehouse materials, the use of the floor-operated crane was excepted under Section B, Helpers Work Classification.

"Operating JIB, monorail, bracket and floor operated cranes; also cranes and hoists not otherwise specified, except when used by employees of other crafts or classes incident to the performance of their duties."

In this dispute there are four basic questions that must be addressed.

1. Was the crane fully converted from a cab-operated to a floor-operated basis?
2. If so, did the modification change the nature of the equipment so as to activate the application of Section B?
3. Was the work performed by the TCU employees incident to their duties?
4. What is the precedential effect of Second Division Award 8979?

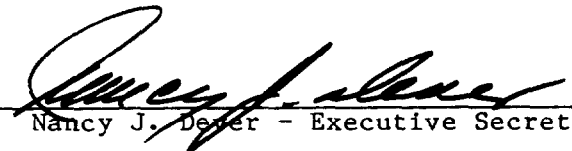
In considering these questions, the Board finds that the crane was fully converted from a cab-operated to a floor-operated basis. There are no Agreement provisions that would bar Carrier from making this conversion and no indications the modified crane wasn't fully floor-operated. Accordingly, if the crane was fully floor-operated, by definition and extension it would come under Section B of the Work Classification Rule. Section B specifically mentions floor-operated cranes in connection with Electrician Helpers. As to the third question, the floor-operated crane was used by TCU represented employees incident to the performance of their duties, that is, loading and unloading storehouse materials. Since the word incident in this context relates to instrumental usage, then using the floor-operated crane to load and unload storehouse materials is an exception under Section B. There has been no citing of authority showing otherwise. In Second Division Award 8979, the Board found that since the Electricians craft operated both pendant controlled cranes and cab operated cranes at the Beech Grove Indiana Maintenance Facility, Carrier violated the Scope Rule, when it changed the controls on an overhead crane from cab-operated to pendant control and assigned the operation of the crane to non-electrical workers. In the instant dispute, there are no indications that electricians operated floor-operated cranes under Section A at the Hollidaysburg Car Shop and no compelling proof that the modification didn't then activate the application of Section B.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dwyer - Executive Secretary

Dated at Chicago, Illinois, this 1st day of July 1992.