

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Form 1

Award No. 12784
Docket No. 12672-T
94-2-93-2-57

The Second Division consisted of the regular members and in addition Referee Joseph A. Sickles when award was rendered.

PARTIES TO DISPUTE:

(International Brotherhood of Electrical
(Workers
(
(The Union Pacific Railroad Company

STATEMENT OF CLAIM:

- "1. That the Texas and Pacific Railway Company violated the controlling agreement, particularly Rules 22, 73, 74, 76 and 77, when they assigned Maintenance of Way Employee Nathan Douglas to operate the 250 ton traveling overhead crane in Carrier's Fort Worth Diesel Shop in Centennial Yard, Fort Worth, Texas, on January 14, 16, 21, 22 and February 20, 1992 thereby denying Electrician F.S. Saliba his contractual rights to operate the crane at Fort Worth, Texas.
2. That, accordingly, the Texas and Pacific Railway Company be ordered to (A) compensate Electrician F.S. Saliba four (4) hours at time and one-half the straight time rate for compensation for this violation of the agreement; (B) cease and desist the practice of violation of the controlling agreement as given herein in assigning other than the Electrical Craft to operate the electric cranes."

FINDINGS:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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 Brotherhood of Maintenance of Way Employees was advised of the pendency of this case and it filed a Submission with the Division.

This dispute concerns the Carrier's direction to a Maintenance of Way employee to operate a 250-ton overhead traveling electric crane in the Diesel Shop at Fort Worth, Texas.

The Organization asserts that the operation, cleaning and lubricating of the overhead traveling electric crane is work exclusively reserved to the electrical workers, by custom, practice and agreement.

In its initial denial, the Carrier noted that one-half of the shop building is a Maintenance of Way repair facility and the performance of its duties consists of all work associated with the repairs and rebuilding of specific track equipment. It concludes that there are many phases in order to accomplish the work and all functions involved with the work belong to that craft or class.

In addition, the Brotherhood of Maintenance of Way employees has filed a third party submission in which it concurs with the Carrier that crane operation work performed concerning the Maintenance of Way function is work within its class.

As this Board has reviewed the evidence, clearly there is a burden of showing that all crane operation work is reserved to electricians, and we are unable to find that evidence. The employees attempted to present certain documentation to the Carrier just days before the matter was submitted to the National Railroad Adjustment Board. It has been held on numerous occasion that information submitted on the property without sufficient opportunity for rebuttal should not be considered at the Board level.

Form 1
Page 3

Award No. 12784
Docket No. 12672-T
94-2-93-2-57

A W A R D

Claim denied.

O R D E R

This Board, after consideration of the dispute identified above, hereby orders that an Award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois this 17 day of November, 1994.