Form 1 NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 12980
Docket No. 12809
96-2-93-2-164

The Second Division consisted of the regular members and in addition Referee Robert E. Peterson when award was rendered.

PARTIES TO DISPUTE: (International Brotherhood of Electrical
( Workers
(
(The Kansas City Southern Railway Company

STATEMENT OF CLAIM:

"1. That the Kansas City Southern Railway Company violated the Rules 24(a), 28(a) (1), Electrical Workers' Special Rules 61 through 69 of the April 1, 1980 controlling agreement, their own letter of instruction and the Settlement Agreement for the United States District Court for the District of Columbia dated August 28, 1989, when they assigned Boilermaker Ray Garner to operate a thirty-five (35) ton overhead electric traveling crane on January 24, 1992, thereby denying Electrician J. E. Dunn being available for call, his contractual rights to operate the crane at Shreveport, Louisiana.

2. That, accordingly, the Kansas City Southern Railway Company be ordered to compensate Electrician J. E. Dunn, (1) two hours and forty minutes at the overtime rate for January 24, 1992; (2) that the Carrier cease and desist the practice of violation as given herein assigning other than Electrical Workers to operate the overhead electric traveling crane."

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 International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers was advised of the pendency of this dispute and chose not to file a Submission with the Division.

The dispute here at issue concerns a determination as to whether the Carrier was extended the right to assign other than an Electrician to operate an overhead electric traveling crane at its Shreveport, Louisiana, locomotive maintenance facility by reason of Article V, "Incidental Work Rule," of the July 31, 1992 Imposed Agreement (hereinafter the Incidental Work Rule).

In protesting the failure of the Carrier to assign or call an Electrician for such work, the Organization says that support for its position that the operation of overhead electric cranes is reserved exclusively to employees from the electrical craft is to be found in various agreement rules; a March 28, 1980 letter that was addressed to all supervisors; Awards 2 and 3 of Public Law Board No. 4168; and, a Settlement Agreement of August 28, 1989 in adoption and implementation of the aforementioned Awards.

The Carrier does not dispute the contentions advanced by the Organization as concerns the past assignment of Electricians in the operation of cranes at Shreveport, Louisiana. However, the Carrier submits that the Incidental Work Rule gave it greater flexibility in the assignment of incidental work and/or simple tasks to any shopcraft employee, regardless of Classification or Scope Rules. The Carrier says it is no longer restricted from having other shopcraft employees perform incidental work in the operation of cranes.

The Incidental Work Rule, as set forth in Article V of the July 31, 1992 Imposed Agreement, reads in part here pertinent:

"Section 1

The coverage of the Incidental Work Rule is expanded to include all shopcraft employees represented by the organization party hereto and shall read as follows:

> Where a shopcraft employee or employees are performing a work assignment, the completion of which calls for the performance of 'incidental work' (as hereinafter defined) covered by the classification of work or scope rules of another craft or crafts, such shopcraft employee or employees may be required, so far as they are capable, to perform such incidental work provided it does not comprise a preponderant part of the total amount of work involved in the assignment. Work shall be regarded as 'incidental' when it involves the removal and replacing or the disconnection and connecting of parts and appliances such as wires, piping, covers, shielding and other appurtenances from or near the main work assignment in order to accomplish that assignment, and shall include simple tasks that require neither special training nor special tools. Incidental work shall be considered to comprise a preponderant part of the assignment when the time normally required to accomplish it exceeds the time normally required to accomplish the main work assignment.
>
> In addition to the above, simple tasks may be assigned to any craft employee capable of performing them for a maximum of two hours per shift. Such hours are not to be considered when determining what constitutes a 'preponderant part of the assignment.'"

The Carrier submits that at the Shreveport facility there are a number of electrical overhead cranes in operation, with a load capacity ranging from one to fifty tons and that they are operated by the use of pendant controls or by remote control. It says the methods by which these cranes are operated require no special training, nor could their operation be considered any more complicated than a child's remote controlled toy -- the pendant controls are equipped with push buttons which must be continually depressed to operate the cranes whereas the remote control units are equipped with spring loaded toggle switches which always return to the stopped position when not being manipulated, and these controls only allow the operator to raise and lower the hoist and to move the crane's position north, south, east, or west. The control mechanisms, the Carrier says, are very simplistic and require no special training to operate.

The Organization argues that the electric crane is a complex and sophisticated piece of equipment, with the overhead traveling crane in particular being radio remote controlled through a control box equipped with four or six levers for direction operation of the crane. The Organization also says that proper and safe operation of the crane requires other employees to assist the Electrical Workers by giving standard crane directional hand signals, to hook up, attach or connect the object of load to be moved of whatever type load might be needed, as in equipment, locomotive parts, etc.

The Organization also maintains that the operation of electric cranes is an assignment of and within itself, and is not and cannot be considered or represented as incidental work and clearly would not fall within the realm of the Incidental Work Rule.

A number of Awards of past Boards are cited to this Board by the parties in support of their respective positions.

The Board finds especially significant Awards rendered by Public Law Board No. 5479, since they involve disputes which concern the application of the Incidental Work Rule. In several of its Awards, PLB No. 5479 denied claims of Machinists that other shopcraft employees could not be assigned to perform work which had been previously reserved exclusively to the Machinist Craft. In Award 2, following an extensive review of those events which led to the adoption of Article V in the July 31, 1992 Imposed Agreement, PLB No. 5479, said:

> "It is clear from this explanation, and from the language of the current rule, that three substantive changes were made. First, the rule was made applicable to all shop craft employees. Second, it was also made applicable in back shops. Third, the range of work that can be performed by employees of other crafts was expanded from the historical definition of incidental work to include simple tasks requiring neither special training nor special tools, even though such tasks are not incidental to another task. A maximum of two hours per employee was imposed on this third change in the rule."

Award 3 of PLB No. 5479, as with its Awards 4, 5 and 7, involved work of a nature which included the operation of an overhead crane, i.e., use of a 5-ton crane, a radio controlled crane, a pendulum-controlled crane. PLB No. 5479 found the overall work performed in each instance (removal and replacement of air filters, radiators, engine blowers, and power assembly) to be simple tasks which did not require special tools or training. In Award 4, PLB No. 5479 stated:

> "The Board does not agree with the Organization that the work required special training or the use of special tools. Jigs, lifting slings or cranes are not the type of 'special tools' which were envisioned in the Imposed Agreement. They are not unique to the Machinist Craft."

The Board also finds worthy of note that in its Award 6, PLB No. 5479 said:

> "Public Law Board No. 4170, in Case No. 17, involving these parties has previously ruled that the work involved in this dispute [the removal and replacement of air compressors] is reserved to members of the Machinist Craft. Nevertheless, the Board concludes that Carrier's assignment of Boilermakers to perform the task was not in violation of the IAM&AW Agreement, as it was permissible under Article V of the July 31, 1992 Imposed Agreement."

The Board also finds the Award of Public Law Board No. 2766 in its Case No. 120 to likewise be significant as concerns work which had previously been reserved to Electricians having been impacted by the Incidental Work Rule. In its findings, PLB No. 2766 noted that the Organization relied heavily on previous Awards of that Board as having precedential standing in the "crane cases" then before that same Board. PLB No. 2766 said that while it stood by those prior Awards as having been proper and appropriate in 1986, that the current situation is not the same, and that the current claims need be considered in a somewhat different light than it viewed the 1986 cases. A major difference, PLB No. 2766 concluded, was the Incidental Work Rule, offering, in part, the following:

> "It is clear that . . . Article V (Incidental Work Rule) has legitimized the use of cranes by crafts other than Electricians when this use is incidental to the fulfillment of the main task assigned. Despite its previous awards on the subject, this Board is required to apply the terms of the imposed Agreement to the crane cases now before it."

Although it may well be, as the Organization asserts in the claim here before the Board, that "the electric crane" is a complex and sophisticated piece of equipment, this fact alone does not support a finding that "operation" of the crane is other than a simple task that is performed throughout the rail industry by employees of various crafts and classes of service.

Further, the Organization has not shown that the operation of the crane at issue involved special training. Nor has the Organization shown that the operation of the crane constituted the use of special tools, or, as stated in Award 2 of PLB No. 5479, the use of a tool "unique to the task and particular craft, and not universal to all Shop Crafts."

Based upon the above considerations, it must be concluded that the Incidental Work Rule has superseded rules, instructions and settlements which heretofore precluded the use of other than Electricians to operate an overhead crane at the Shreveport, Louisiana, maintenance facilities. Accordingly, the claim will be denied.

## AWARD

Claim denied.

## ORDER

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 2nd day of February 1996.