

Award No. 7059

Docket No. MW-6778

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Edward F. Carter, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

ILLINOIS CENTRAL RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood, that:

(1) The Carrier violated the Agreement when it required and/or permitted a Bridge and Building Supervisor at Waterloo, Iowa to perform the duties contemplated in the position of a Paint Foreman in lieu of properly establishing and bulletining a paint Foreman's position.

(2) That the Carrier be required to assign the work of supervising the work of painters at Waterloo, Iowa, together with all other work incident thereto such as preparing payroll reports, work distribution reports, requisitions for materials and materials distribution reports to employees holding seniority under the effective Agreement in accordance with the provisions of the effective Agreement.

EMPLOYES' STATEMENT OF FACTS: The Carrier requires certain painting work to be performed at its Waterloo, Iowa, terminal, and such work is assigned to a painter, and/or painters covered within the scope of the Agreement between the parties hereto.

The Carrier does not employ a painter foreman at its Waterloo, Iowa terminal, but in lieu thereof, requires the Bridge and Building supervisor to perform all the duties inherent to and contemplated within the position of a painter foreman. Painters at the Waterloo terminal work under the immediate and direct supervision of the Bridge and Building supervisor who, among other things, makes all work assignments, directs and supervises all painter work and prepares and submits all work, payroll, and other reports required in connection with painting work.

The duties performed by this Bridge and Building supervisor, insofar as they involve painting work, are customarily and historically assigned and performed by painter foremen at other locations on this property.

Duties and positions of painter foremen are contemplated within the scope of the Agreement between the parties hereto and a suitable rate of pay for such positions has been agreed to and negotiated into the Agreement.

See also Third Division Awards 1405, 1406, 1418, 1689, 1694, 2138, 2334, 3221 and 3424.

The Carrier views the present claim as an attempt on the part of the organization to require the services of a foreman in all cases when painters may be individually engaged in routine maintenance work. The practice on this property does not support this purpose and no such requirement can be found or implied in the agreement. In the absence of any rule in the agreement setting forth the circumstances when a foreman must be used, Carrier contends that it is properly within its own province to decide when a foreman will be used. See Award 2025. The traditional duty of a foreman is to supervise the work of a group of men. When one experienced painter works at routine tasks, it would be uneconomical and unjustifiable to appoint a foreman to watch him work.

There is no basis for this claim, and it should be denied.

All data in this submission have been presented to the Employees and made a part of the question in dispute.

OPINION OF BOARD: Carrier has one painter assigned at Waterloo, Iowa, who is carried on the payroll of the B.&B. Supervisor at that point. The Organization contends that the Agreement is violated in that there is no painter foreman at this point and that the work of a painter foreman is being performed by the Bridge and Building Supervisor. The Organization requests that Carrier be required to assign a painter foreman at Waterloo.

It is plain from the record that the B.&B. Supervisor designates the work to be done by the painter, but he does not instruct the painter or direct him in the details of the work. Under these circumstances, the B.&B. Supervisor is not doing the work of a painter foreman. We point out also that the agreement does not require the assignment of a foreman. The need of supervision, in the absence of agreement provisions to the contrary is a matter within the prerogatives of management. Awards 4235, 4992, 6114, 6699. It appearing that Carrier does not deem the assignment of a foreman necessary and there being no employee wrongfully performing the duties of a foreman, there is no basis for an affirmative award.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved, herein; and

That the Agreement was not violated.

AWARD

Claim denied. ^

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois this 22nd day of July, 1955.