

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 28399
Docket No. MW-28294
90-3-88-3-63

The Third Division consisted of the regular members and in addition Referee Irwin M. Lieberman when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Duluth, Missabe and Iron Range Railway Company

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

(1) The Agreement was violated when the Carrier assigned Electricians Vadnais and Saylor to install wooden skids on a relay building at the Proctor Electrical Shop on January 19, 1987 (System File 10-87).

(2) As a consequence of the aforesaid violation, furloughed B&B Mechanics G. M. Sjoquist and T. J. Bijold shall each be allowed six and one-half (6 1/2) hours of pay at the B&B Carpenter's straight time rate."

FINDINGS:

The Third 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 employees 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 Electrical Workers were advised of the pendency of this dispute, and filed a Response with the Division.

The record indicates that on January 19, 1987, two electricians were assigned the task of attaching two railroad ties to a signal bungalow prior to the movement of the bungalow to its permanent location (for the purpose of housing signal batteries). The record also indicates that B & B forces have in the past accomplished tasks for the purpose of maintaining similar bungalows.

The Organization asserts that the work in this dispute was of a character which has customarily, traditionally and historically been performed by B & B employees. In addition it is argued that the permanent attachment of skids to the structure is the type of work covered by the Classification of Work Rule (Rule 26).

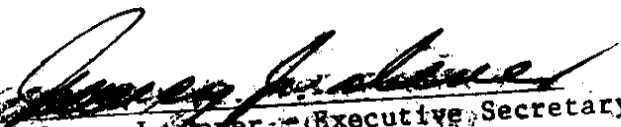
Carrier takes the position that the work involved in this dispute is within the Organization's jurisdiction. Further Carrier asserts that there is no language in the Agreement to support the Organization's position. To the contrary, Carrier maintains that electricians have normally performed a particular type of work involved herein.

The Scope Rule in this Agreement has long been characterized as general in nature (see Award 19921 among many others). Further the Classification of Work Rule relied on by the Organization does not reserve the work to the B & B employees (see Third Division Awards 26831, 27697, 27806 and others). Additionally, Third Division Award 12376 relied on by the Organization specifies that the disputed work in that case had been performed historically and customarily by the B & B forces. Unlike that circumstance in this dispute there is no evidence whatever to indicate that the particular task had been performed historically by B & B forces. In fact the Organization has failed to rebut Carrier's assertion that the task of attaching frames or skids to signal hungalows has normally been performed by electricians as part of their work. It must be concluded that the Organization has not presented convincing evidence or Rule support for this Claim. It must be denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: 
Nancy J. Bever - Executive Secretary

Dated at Chicago, Illinois, this 25th day of May 1990.