



NATIONAL MEDIATION BOARD
WASHINGTON, DC 20572

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In the Matter of the
Application of the

**BROTHERHOOD OF
COMMUNICATION WORKERS**

alleging a representation dispute
pursuant to Section 2, Ninth, of
the Railway Labor Act, as
amended

involving employees of
ILLINOIS CENTRAL RAILROAD

38 NMB No. 48

CASE NO. R-7290
(File No. CR-6987)

**FINDINGS UPON
INVESTIGATION-
DISMISSAL**

May 26, 2011

This determination addresses the application filed by the Brotherhood of Communication Workers (BCW) alleging a representation dispute pursuant to the Railway Labor Act¹ (RLA), 45 U.S.C. § 152, Ninth (Section 2, Ninth). BCW seeks to represent the craft or class of “Equipment Technician, Equipment Maintainer, Senior Equipment Technician, Field Engineer, Cable Splicer, and Installer,” employees of Illinois Central Railroad (IC or Carrier). The International Brotherhood of Electrical Workers (IBEW) represents the craft or class of Electrical Workers on IC.

ISSUE

Is “Equipment Technician, Equipment Maintainer, Senior Equipment Technician, Field Engineer, Cable Splicer, and Installer” the appropriate craft or class, or are those employees part of the larger craft or class containing all of IC’s electrical workers?

¹ 45 U.S.C. §151, *et. seq.*

PROCEDURAL BACKGROUND

On August 4, 2010, the BCW filed an application alleging a representation dispute among the Carrier's "Equipment Technician, Equipment Maintainer, Senior Equipment Technician, Field Engineer, Cable Splicer, and Installer" employees. This application was assigned NMB File No. CR-6987. Susanna F. Parker was assigned as the Investigator. The BCW filed an initial position statement on August 18, 2010 and the Carrier and the IBEW each filed an initial position statement on August 19, 2010. The BCW requested an opportunity to respond to the August 19, 2010 position statements. The Investigator granted the request and the BCW and the IBEW each filed a response to the initial position statements on September 2, 2010. The Carrier filed a response on September 3, 2010. The case was reassigned to investigator Norman L. Graber on October 4, 2010.

CONTENTIONS

BCW

BCW contends that the employees it seeks to represent all work in the IC Communications Department, a part of the Engineering Department; have different job titles than the electrical workers in the Mechanical Department; and are covered by a separate contract from electrical workers in the Mechanical Department. BCW argues that the job classifications at issue in this case have evolved from other jobs over the years; and that, currently, reference to these jobs in Carrier documents do not mention the term "electrician." BCW contends that the disputed employees work in the Communications Department and are totally separate from the chain of command in the Mechanical Department. Moreover, BCW notes that the employees in question are not only covered by a separate contract from the Mechanical Department electricians, but the two groups of employees have no seniority rights to jobs in the other contract.

Further, BCW argues that the job classifications at issue here require the employees to hold an FCC license, but do not require the employees to be licensed electricians. Additionally, BCW contends that the Federal Railroad Administration (FRA) requires the applied-for employees, but not Mechanical Department electricians, to keep Hours of Service logs. BCW argues that IBEW recognized the existence of the craft or class sought in the pending application when it signed a letter with the Carrier in 2005 determining that there are seven Communications Department classifications.

IBEW

IBEW contends that the BCW's application "should be dismissed because it is directed to less than a complete craft or class and is not supported by authorizations from 50% of the complete craft or class." IBEW states that the BCW seeks to represent employees described as "Equipment Technician, Equipment Maintainer, Senior Equipment Technician, Field Engineer, Cable Splicer, and Installer," and the Board has never recognized such a craft or class.

According to IBEW, the employees at issue all work in the Carrier's Communication Department, "[b]ut the Communications Department electrical workers themselves do not constitute a proper craft or class." IBEW states that there are electrical workers in the Carrier's Mechanical Department as well and that the "IBEW has represented all of the Carrier's electricians – across department lines – for decades." IBEW contends that there are 75 electricians on the seniority lists for the Carrier's Mechanical Department; therefore, there are 110 active employees in the Electrical Workers' craft or class on IC.

Additionally, IBEW asserts that all electrical workers on IC have the same terms and conditions of employment. IBEW states, "There are two basic collective bargaining agreements in which the overwhelming majority of provisions are identical for all . . . electrical workers. . . The only material differences occur in the seniority provisions, but that stems from the fact that one of the agreements . . . has not been updated to reflect the same terms as the other . . . Thus, although not reflected in the two written documents, uniform rules apply to all covered employees insofar as discipline, personal injury reporting, three-doctor panels, differentials, [and] incidental work." IBEW also states that in bargaining it always serves the Carrier with "Section 6 notices that cover all electrical workers, regardless of the particular positions they hold." IBEW maintains that the Carrier and IBEW have participated in national handling of major disputes for many years; therefore, all IC electrical workers are covered by the same national agreements covering vacations, union shop, health and welfare coverage, job protection, holidays, and on-the-job injury benefits.

IBEW states that the RLA does not distinguish between types of electricians inasmuch as "Section 3, First (h) provides for the Second Division of the National Railroad Adjustment Board to have jurisdiction over disputes involving 'electrical workers'" without regard for job titles or departments in which the employees work.

Finally, IBEW asserts that finding a separate craft or class for the electrical workers in the application is inconsistent with Board precedent.

CARRIER

Initially, the Carrier agreed that the BCW identified a proper grouping of employees for representation under the RLA but stated that the craft or class “is more appropriately identified as Telecommunication Workers” In a subsequent submission, the Carrier stated, “[a]fter review and consideration of the parties’ initial position statements, the Carrier does not take a position as to whether the employee grouping identified in the Application should be treated as an independent craft or class or as part of a larger craft or class of electrical workers. On the specific facts of this case, the Carrier believes that the Board may appropriately treat the employee grouping as either a separate craft or class, or part of the larger craft or class of electrical workers.”

FINDINGS OF LAW

Determination of the issues in this case is governed by the RLA, as amended, 45 U.S.C. § 151, *et seq.* Accordingly, the Board finds as follows:

I.

Illinois Central is a common carrier by rail as defined in 45 U.S.C. § 151, First.

II.

BCW and IBEW are labor organizations and/or representatives as provided by 45 U.S.C. § 151, Sixth, and § 152, Ninth.

III.

45 U.S.C. § 152, Fourth, gives employees subject to its provisions “the right to organize and bargain collectively through representatives of their own choosing. The majority of any craft or class of employees shall have the right to determine who shall be the representative of the craft or class for purposes of this chapter.”

IV.

45 U.S.C. § 152, Ninth, provides that the Board has the duty to investigate representation disputes and shall designate who may participate as eligible employees in the event an election is required.

STATEMENT OF FACTS

IBEW has represented all of the Carrier's electrical workers for many decades. Electrical workers in IC's Mechanical Department are covered by an IBEW-negotiated collective bargaining agreement (Agreement A). Employees in the six job classifications sought by BCW are employed in IC's Communications Department, which is part of the Engineering Department, and are covered by an IBEW-negotiated collective-bargaining agreement (Agreement B). Employees covered by one agreement do not have seniority rights relative to employees covered by the other agreement. However, the majority of provisions are identical for employees under both agreements, including disciplinary rules, personal injury reporting, differentials, and incidental work. IBEW and IC have participated in national handling of major disputes, and employees covered by both agreements are governed by the same national handling provisions. During bargaining, IC has never claimed that there are separate crafts or classes containing electrical workers.

Regarding the different work performed by employees in the Mechanical Department and the Communications Department, Agreement A provides as follows:

Rule 52. Electricians' work shall consist of maintaining, repairing, rebuilding, inspecting and installing the electric wiring of all generators, switchboards, meters, motors and controls, rheostats and controls, transformers, motor generators, rotary converters, electric headlights and headlight generators, electric welding machines, storage batteries, axle lighting equipment, electric clocks and electric lighting fixtures; winding armatures, fields, magnet coils, rotors, transformers and starting compensators; air conditioning equipment, automatic train control on locomotives, inside and outside wiring at shops, buildings, yard, and on structures and all conduit work in connection therewith, steam and electric locomotives, passenger train and motor cars, electric tractors and trucks, bonding of cables, including cable splicers, high tension power house and sub-station operators, high tension linemen, electric crane operators of cranes of forty (40) ton capacity or over who perform minor electrical repair work on such cranes, and all other work generally recognized as electricians' work.

The above shall not apply to power supply facilities used exclusively for signal and interlocking purposes which are beyond the switch supplying these facilities, but does apply to generally [sic] lighting.

IC notes that “[i]n general, the work performed by the classifications at issue is described in Rule 51 (Classification of Electrician) . . . of [Agreement] B,” which provides as follows:

Rule 51. Electricians’ work shall consist of maintaining, repairing, rebuilding, inspecting and installing the electric wiring of generators, switchboards, meters, motors and controls, rheostats and controls, transformers, motor generators, rotary converters, electric welding machines, storage batteries, all inside telegraph and telephone equipment, electric clocks and electric lighting fixtures; winding armatures, fields, magnet coils, rotors, transformers and starting compensators; inside and outside wiring at shops, buildings, yards, and on structures and conduit work in connection therewith, electric tractors and trucks, bonding of cables and rails, including cable splicers, high tension power house and sub-station operators, high tension linemen, and other work properly recognized as electricians’ work. The above shall not apply to power supply facilities used exclusively for signal and interlocking purposes which are beyond the switch supplying these facilities, but does apply to general lighting.

On June 14, 1973, IC wrote to the IBEW noting an agreement with the IBEW that:

Communication work shall consist of but not limited to installing, removing, assembling, testing, adjusting, repairing, inspecting and maintaining various kinds of electronic equipment and systems such as; telephone, teletype, microwave, radio, hotbox detectors, automatic car identification equipment, lines, poles and supports for service wires and cables, and any other communication system generally recognized as communication work. . .

On June 15, 1973, IC wrote to IBEW noting an agreement that the parties “will establish new classifications of work in the communication department to better describe the work performed by employees. . . .”

Many of the job classifications sought to be represented by BCW were revised or established in response to changing technology. On June 13, 1973, the Equipment Technician position was revised as follows:

The Equipment Technician is expected to have several years experience in broadband telecommunications, toll testing, and private line clearing. He must have a license issued him by the Federal Communications Commission of the Grade, Operator Second Class or whatever license is required. He must be thoroughly familiar with microwave radio and multiplex. . . .

The equipment associated with the duties of equipment technician may include: microwave transmitters and receivers, feed horns, reflectors, and pressurization equipment, transmitter and receiver fault detecting equipment and the control logic and switching equipment. The power supply equipment includes voltage and current rectifiers, regulated high voltage power supplies and regulated low voltage power supplies. The multiplex equipment is not easily described in generic terms. The circuitry includes frequency generating equipment which is synchronized with all other multiplex equipment on the system, various regulated AC to DC converters, amplifiers, modulating and demodulating equipment in the microwave system, filters and combining networks, fault sensing and alarming devices. . . .

Carrier bulletins concerning Equipment Technician postings note that the duties require an employee “to install, test and maintain any type of communication equipment or related appurtenances and to do work as required.” Postings also required the FCC license.

On March 30, 1987, the Senior Equipment Technician position was established with the following requirements:

An individual in this position will have worked as an equipment technician, or be capable of working as an equipment technician, and will have supervisory skills.

This person . . . has the responsibility and authority over all classes of Communications workers assigned. A Senior Technician is responsible for seeing that routine work and preventive maintenance is performed on schedule and done properly. The Senior Technician position will further entail the following duties and responsibilities: assigning duties to communications workers in the maintenance and installation of communications equipment and appurtenances, assisting in training of communications workers, relaying information to supervisors concerning work or personnel problems, keeping necessary records as required by supervisors, and other duties as assigned on the system.

Subsequent job postings for this position require a license issued by the FCC of the grade General Radiotelephone Operator or a license issued by the National Association of Business and Educational Radio of the grade Certified Technician.

On March 30, 1987, the Field Engineer position was established with the following requirements:

An individual in this position will have worked as an equipment technician, or be capable of working as an equipment technician, and will have supervisory skills.

This person . . . has the responsibility of Engineering and/or conceiving communication systems and devices. Furthermore, the Field Engineer may be required to perform the functions of a Senior Equipment Technician as needed by the requirements of service.

Subsequent job postings for this position require a license issued by the FCC of the grade General Radiotelephone Operator or a license issued by the National Association of Business and Educational Radio of the grade Certified Technician.

An IC posting for an Equipment Installer lists duties including “install, test and maintain any type of communications or related equipment and to other work as required.” An IC posting for a Cable Splicer position notes that the “prime responsibility . . . will be to maintain” a cable plant and sets out duties to “install, test and maintain any type of communication cable or related

appurtenances and to do work and other assignments as necessary on the system.” An IC posting for an Equipment Maintainer position lists duties including “install, test, and maintain any type of communications equipment or related appurtenances and to do work as required.”

BCW submitted an IC job posting for an Electrician position including duties of “inspection of locomotives, running repairs, on-the-road repairs, equipment maintenance, and all other duties of the craft as assigned by the supervisor,” but requiring no FCC license. According to BCW, this posting was not issued to any Communication Department employees. BCW also submitted a variety of Communication Department job assignments and postings that do not mention the term “electrician.”

On December 12, 2005, an internal IBEW letter acknowledged that it and IC had identified seven classifications in the Communication Department that were covered by Agreement B: Field Engineer, Senior Technician, Equipment Technician, Equipment Installer, Cable Splicer, Communication Maintainer, and Communication Technician. The letter also discussed the IBEW’s attempt to separate the Maintenance of Way Electrician from the Telecommunication description.

DISCUSSION

“The Board has frequently stated its policy against fragmenting crafts or classes.” *American Airlines, Inc.*, 21 NMB 60, 72 (1993). Further, the Board “recognizes that it is not authorized to make a determination for a unit smaller than the entire craft or class.” *Id.* See also, *Galveston Wharves*, 4 NMB 200, 203 (1962). The Board has long held that electrical workers constitute a single craft or class that contains all of a carrier’s electrical workers. See, e.g., *Southern Pacific Lines-Texas and Louisiana*, 1 NMB 96 (1938). Therefore, if the employees sought to be represented by BCW perform electrical worker functions, the Board will not separate them out from the appropriate, larger craft or class of Electrical Workers.

The record demonstrates that IBEW has bargained with IC for decades on behalf of the employees sought in this matter. Bargaining history, however, is not the determinative factor. Rather, a determination on placement in a craft or class is governed by the work performed by the employees in question. BCW contends that the employees it seeks to represent are communications workers. The record in this case clearly demonstrates, however, that the employees in question are considered to be electricians and, in fact, perform electrical work. IC acknowledged that the employees working in the job classifications listed by BCW’s representation application are covered by the Agreement B contract Rule 51, the provision on electrical workers. Even the

documentation submitted by BCW shows that much of the work the disputed employees perform is traditional electrician work, although done in the setting of the telecommunications area.

As noted by BCW, the disputed employees work in a separate department, have different job titles, and appear to have different licensing requirements from other IC electrical workers. Further, the disputed employees and other IC electrical workers are on separate seniority lists. Although these facts all present certain differences between the disputed employees and other IC electrical workers, they are not dispositive of the craft or class placement issue. Placement in a particular carrier department is not controlling when employees perform work traditionally encompassed by a broader craft or class. *See, e.g., Southern Pacific Lines, above* at 98 (electricians working in the signal department are not part of the Signalmen craft or class). Additionally, job duties, rather than job titles, are determinative of craft or class placement. *See, e.g., Florida East Coast Ry. Co., 18 NMB 460, 464 (1991)* (the change of job title from radio electricians to electronic repairmen does not remove employees from the Electrician craft or class where there was virtually no change in duties). Further, although BCW raises the issue of how jobs are posted and who has seniority for which positions, it is not unusual in a broad craft or class for employees not to be eligible for every position within the craft or class.

The jobs in question have evolved over time to accommodate changes in telecommunication technology. But the record demonstrates that the employees in question, regardless of department placement or job titles, are covered by a collective bargaining agreement referring to them as Electricians, and they perform work that is part of the traditional Electrician craft or class.

CONCLUSION

Based on the record in this case and for the reasons discussed above, the NMB finds that the Equipment Technician, Equipment Maintainer, Senior Equipment Technician, Field Engineer, Cable Splicer, and Installer employees sought to be represented by BCW are part of the Electrical Workers craft or class at IC. BCW did not submit a sufficient number of authorization cards to warrant a representation election in this matter. Therefore, NMB File No. CR-6987 is converted to NMB Case No. R-7290 and BCW's application for employees at IC is dismissed pursuant to Part 1206.4(b)(2) of the Board's rules.

By direction of the NATIONAL MEDIATION BOARD

A handwritten signature in black ink that reads "Mary L. Johnson". The signature is written in a cursive style with a large initial "M".

Mary L. Johnson
General Counsel

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