

The Second Division consisted of the regular members and in addition Referee Nicholas H. Zumas when award was rendered.

Parties to Dispute: (Sheet Metal Workers' International
Association
(
(Norfolk and Western Railway Company

Dispute: Claim of Employees:

1. That the Carrier violated the current Agreement particularly Rule No. 84, when they improperly assigned other than Sheet Metal Workers (B & B Carpenters) to the erecting and assembling of sheet metal clothes Lockers to be used by Conductors and Brakemen beginning on or about March 15, 1972 and April 1, 1972.
2. That accordingly the Carrier be ordered to:
 - A. Discontinue the use of employees other than employees of the Sheet Metal Workers Craft in performing the work of erecting and assembling sheet metal work as specified in Rule 84.
 - B. Compensate Sheet Metal Workers J. M. Spangler and R. J. Witt each in the amount of 86 hours at the time and one-half rate to be equally divided among them for this violation.

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.

The question to be determined in this dispute is whether, on this property, the Sheet Metal Workers had the exclusive right to perform the work involved.

The Board is of the opinion that, as far as these parties are concerned, the question has been answered in the Organization's favor by Second Division Awards No. 5950 and No. 6063. Rule No. 84 was violated.

With respect to remedy, the Board further finds:

1. Part 2-A of the claim must be denied. As was stated in Award No. 5950: "This Board has no injunctive or equitable powers, and cannot direct the Carrier in the conduct of its business."
2. Part 2-B of the claim at the pro rata rate rather than at the punitive rate. As was stated in Award No. 6063: "This Division has always refused to award pay at the punitive rate under similar circumstances."

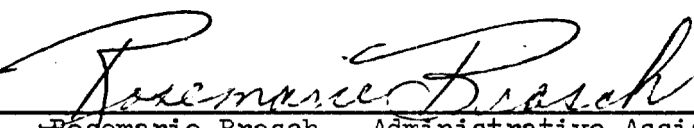
A W A R D

Claim sustained to the extent indicated in the findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 8th day of August, 1975.