

The Second Division consisted of the regular members and in addition Referee W. J. Peck 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 under the current agreement, assigned other than employees of the Sheet Metal Workers' Craft (Molders, Molder Helpers and Laborers) to perform work covered by the provisions of Rule 84 and the current agreement and past practice. This work assignment consisted of the removal and replacement of dust collector filters in the dust collecting system in the Foundry, Roanoke Shops, Roanoke, Virginia beginning on May 22 through May 26, 1981.
2. That accordingly, the Carrier be ordered to additionally compensate Sheet Metal Workers, E. M. Hairfield, Jr., R. E. Jones, R. A. Thierry, C. W. Murray, G. E. Cole, T. A. Garrison, C. M. Waldron and T. P. Martin in the amount of 159 hours at the straight time rate to be equally divided among them.

Findings:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes 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 Carrier maintains a large freight car and locomotive repair facility at Roanoke, Virginia. Because of Environmental Protection Agency restrictions it was necessary for the Carrier to install some air pollution prevention equipment called Emission Control Bag Houses in which air is filtered through some felt like material apparently similar to but much larger than the filter bag in a vacuum cleaner. Some time in May of 1981 it was necessary for these filters to be changed, which work was performed on dates of May 22, 23, and 26, by laborers who are represented by the International Brotherhood of Firemen and Oilers. The Sheet Metal Workers International Association contend that their members should have performed the work. Both parties contend that the work is covered by their classification of work rule and/or scope rules and that they have historically performed it. This is the genesis of the dispute.

The Carrier contends that the work is not covered by either classification of work rule and/or scope rules, and while agreeing that members of both organizations have at times performed the work, Carrier contends that neither of the parties have performed it enough to claim exclusive jurisdiction.

Rule 84, the Sheet Metal Workers classification of work rule reads:

"Sheet Metal Workers shall consist of tinning, coppersmithing and pipe fitting in shops, yards, buildings, on passenger coaches and engines of all kinds; the building, erecting, assembling, installing, dismantling (for repairs only), and maintaining parts made of sheet copper, brass, tin, zinc, white metal, lead, black, planished, pickled, and galvanized iron of 10 gauge and lighter (present practice between Sheet Metal Workers and Boilermakers to continue relative gauge of iron) including brazing, soldering, tinning, leading and babbitting (except car and tender truck journal bearings), the bending, fitting, cutting, treading, (when men are regularly assigned to operate pipe cutting and treading machines) brazing, connecting and disconnecting of air, water, gas, oil and steam pipes, the operation of babbit fires (in connection with Sheet Metal Workers' work), oxyacetylene thermit and electric welding, and all other work generally recognized as Sheet Metal Workers' work."

The Scope rule of the Firemen and Oilers reads:

"Rule No. 1--Employees classification;

The following rules govern the hours of service, working conditions and rates of pay of the Employees listed below, working in and about shops, power plants, engine terminals, car repair tracks and train yards, and who are employed in the mechanical department.

*Stationary Firemen*

Power House Attendants, Steam (Blue Stone Power House)

Helper Power House Attendants, Steam (Blue Stone Power House)

Boiler Room Water Tenders

Fire and Water Tenders

Monthly Rated Engine Watchmen

Turn Table Operators

Truck Operators

Engine Supply Men

Coal Passers

Fire Cleaners

Fire Builders

Flue Cleaners

Sand Dryers

Coal Wharf Men

Engine Cleaners (includes blacking locomotive smoke boxes and fire boxes)

Water Softener Employees

Shop Watchmen

Scrap Shear Operators

Laborers, General"

Neither the Sheet Metal Workers or the Firemen and Oilers have cited any specific provisions in the above two (2) cited classifications of work rule and/or scope rules which covers the work involved in this dispute and if there is any such coverage it is not apparent to this neutral. We must agree with the Carrier that the work of changing out these filters is not covered by either of the two (2) previously cited work rules.

Both the Sheet Metal Workers and the Firemen and Oilers contend that historically their members have performed this work (the Firemen and Oilers concede that the time period was relatively short) other than bare assertions neither side presents any proof at all. The Carrier asserts that the change outs were as follows:

| <u>Location</u>                | <u>Filters Changed</u>                      |
|--------------------------------|---------------------------------------------|
| Foundry South side of building | By laborers for the first time in May, 1981 |
| Section 20 Building            | Only once by Laborers                       |
| New Car Line, Freight car shop | Many times by Laborers                      |
| Foundry cleaning shop          | Once by Sheet Metal Workers                 |

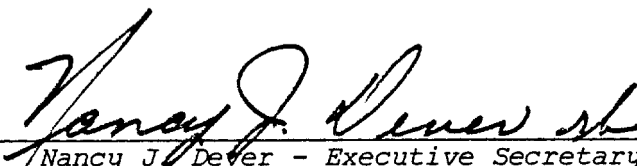
We do not believe that the record of past practice as shown in this case is sufficient to establish a clear cut showing of exclusive jurisdiction for either party, however the Firemen and Oilers' does appear to have the stronger claim. We will deny the claim.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this, 1st day of August 1984.