Award No. 2898
Docket No. 2487
2-B&M-SM-'58

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Harry Abrahams when the award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 18, RAILWAY EMPLOYES' DEPARTMENT, AFL-CIO (Sheet Metal Workers)

BOSTON AND MAINE RAILROAD

DISPUTE: CLAIM OF EMPLOYES:

1. That the Carrier violates the current controlling agreement when they assign other than Sheet Metal Workers to perform the following work on air conditioned cars:

a) Removing, repairing and making new when necessary, including the sweating of joints and re-applying and tubing of Freon Gas Lines.

b) Removing and replacing of all valves in Freon Gas Lines.

2. That accordingly the Carrier be ordered to assign the aforesaid work to the Sheet Metal Workers' Craft.

EMPLOYES' STATEMENT OF FACTS: Maintenance of air conditioned passenger coaches on the Boston and Maine Railroad requires the repair and installation of new tubing to carry the freon gas used in air conditioning units installed on such cars. Also, it requires the servicing of such freon gas lines by maintenance forces.

When the assignment of the work in question was originally made by this carrier to the employes in the electricians class, protest was made to the carrier in behalf of the sheet metal workers. However, the question of jurisdiction arose. The authorized representatives of the Electrical Workers International, and the Sheet Metal Workers International signed a decision identified as Docket No. 22, Award No. 4 and Docket No. 24, Award No. 5 dated September 27, 1951, settling the question of jurisdiction. This decision was as the result of the recognized practice in the Railway Employes' Department, A. F. of L. for the settling of any dispute involving the jurisdiction of the shop crafts to perform certain specific work, particularly the agreement of February 15, 1940. (See Exhibit B and B-1).

6. This offer is now rescinded. However, the carrier would agree to a counter-proposal by the respective labor organizations, which would indicate therein that the work in the yards (25%) would continue to be performed by the electricians' organization, similar to the last 22 years.

For the record, there is no monetary claim made in this case.

In view of the foregoing, the carrier requests that your Honorable Board deny this claim in its entirety.

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 employe 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.

The parties to said dispute were given due notice of hearing thereon.

The current agreement effective April 1, 1937 contained Work Rule No. 88 covering Sheet Metal Workers' classification of work. The pertinent part of said Rule 88 with omissions indicated read as follows:

> "Sheet Metal Workers' work shall consist of tinning, coppersmithing and pipefitting in shops, yards, buildings, and on passenger coaches and engines of all kinds; . . . including brazing, soldering, tinning, leading and babbitting . . . the bending, fitting, cutting, threading, brazing, connecting and disconnecting of air, water, gas, oil and steam pipes . . . and all other work generally recognized as Sheet Metal Workers' work."

The work involved mainly came about in 1935 when air conditioning cars were being used. The work was then assigned to electrical workers in both shop and yard at East Cambridge Car Department. In 1951, a jurisdictional dispute arose as to who should receive the said work, between the sheet metal workers and the electrical workers. The said dispute was settled under the jurisdictional dispute procedure of February 15, 1940 between the organizations by agreeing that the work belonged to the sheet metal workers.

The carrier did not agree to or with the said settlement of the said jurisdictional dispute but stated that it would agree to allow the sheet metal workers to do the work in the shops which would account for 75% of the total work, but did not agree to permit the sheet metal workers to do the work in the yards which amounted to only 25% of the total work. The sheet metal workers refused to accept the offer of the carrier.

The carrier was not part of the jurisdictional dispute procedure, nor did it agree to or with the settlement of the said jurisdictional dispute; nor was it bound by the said settlement unless said Work Rule 88 covered the said work so involved as so settled.

Said Work Rule 88 was part of the April 1, 1937 agreement signed by all of the parties involved herein. That rule covered the work involved in this

dispute and, accordingly, it did belong to the sheet metal workers, both in the shop and in the yard. The said agreement effective April 1, 1937 as subsequently amended is controlling herein and must be applied accordingly.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 30th day of June, 1958.

DISSENT OF CARRIER MEMBERS TO AWARD No. 2898

The record shows there existed between the parties an understanding, with respect to the handling of jurisdictional disputes, that work would not be taken from one craft and assigned to another without an agreement to that effect being negotiated between carrier and System Federation No. 18.

In the instant case no agreement was consummated as required by the expressed understanding between the parties. The Federation instituted proceedings to effectuate such an agreement, but failing in the initial stages thereof to obtain satisfactory results abandoned negotiations and came to this Board seeking the relief it failed to obtain through negotiations. This the Federation was not free to do. The matter should have been negotiated to a conclusion as prescribed by the Railway Labor Act, as amended.

The claim was therefore not properly before this Board and should have been remanded to the parties as was done in cases covering similar situations in this Division's Awards 2947 to 2780, inclusive, 2864 to 2872, inclusive, and 2931 to 2936, inclusive.

For the above reasons we dissent from the findings of the majority in Award 2898.

/s/ R. P. Johnson
/s/ J. A. Anderson
/s/ E. H. Fitcher
/s/ D. H. Hicks
/s/ M. E. Somerlott