

Award No. 2976

Docket No. 2417

2-EJ&E-BM-'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. 88, RAILWAY EMPLOYES'
DEPARTMENT, AFL-CIO (Boilermakers)**

ELGIN, JOLIET AND EASTERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYES:

1. That under the current agreement the carrier improperly assigned the laying out, cutting and construction of a steel support table to other than the boilermakers' craft December 1 through 31, 1954.

2. That the designated employees of the boilermakers' craft be compensated in the amount of 144 hours at the applicable hourly rate.

EMPLOYEES' STATEMENT OF FACTS: During the month of December 1954 at Joliet, Illinois, the carrier assigned the laying out, cutting and building of a steel support table, 130 feet long, 5½ feet wide and 3½ feet high to the carmen's craft. This support table was constructed from ¼" boiler plate, ⅜" by 4" angle iron, channel iron, T-iron and I-beams. The dates on which this work was performed were December 1, 2, 3, 6, 7, 8, 9, 10, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 27, 28, 29, 30 and 31, 1954.

Employees of the boilermakers' craft were available to perform the work on these dates.

The agreement as reissued June 15, 1950 is controlling.

POSITION OF EMPLOYES: It is submitted that the carrier improperly assigned to other than the boilermakers' craft the work of laying out, cutting and building the steel support table described in the employees' state-

of Article V for those dates from December 1 through 21, 1954, inclusive, regardless of the disposition of the balance of the claim.

V. CONCLUSION

The carrier is confident that the Board will find that in this submission the carrier has conclusively established the following points:

1. The work involved is properly assignable to Carmen under that provision of Rule 67 establishing that the historic division of work between boilermakers and carmen shall continue; the work of constructing and assembling the conveyor in question is properly within the classification of work governed by that part of Rule 67.

2. The claim is barred by Article V of the August 21, 1954 agreement for the reasons that the organization failed to institute proceedings before the Second Division, National Railroad Adjustment Board, within nine months of the time the claim was declined by the highest officer designated by the carrier to handle time claims and grievances.

3. That portion of Part (2) of the claim that covers the alleged violation from December 1 through 21, 1954, is barred by Section 3 of Article V of the August 21, 1954 agreement because the claim for such dates was not filed with the officer of the carrier designated to receive such within sixty days of the date of the occurrence complained of.

In view of the foregoing, the carrier respectfully submits that a denial award should be made.

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.

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

The main issue involved herein as to the merits is whether the work of constructing and installing a production line fabricating jig for positioning, supporting and grinding the respective parts used in assembly gondola sides belongs to Carmen or Boilermakers.

Under both Rule 67 of the Boilermakers' Special Rules and Rule 127 of the Carmen's Special Rules, the following clause appears, "It is understood that present practice in the performance of work between the Carmen and Boilermakers will continue."

The Carrier contended that the Carmen in the past have always built all the tools and fixtures that were needed by them to properly perform their duties and that the fixture, table or conveyor involved herein was used exclusively by the Carmen in their fabricating work.

This Board, after considering the entire record, must come to the conclusion that the work involved in the making of the tables, conveyors, tools and fixtures and jigs involved in this dispute as used in the performance of Carmen's work is and has been Carmen's work, and was therefore properly assigned to Carmen during the time alleged in said claim.

In view of this fact, the claim of the employes must be denied. It is therefore not necessary in this Award to consider the questions as to time limitations raised by the carrier.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: H. J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 13th day of October, 1958.

DISSENT OF LABOR MEMBERS TO AWARD NO. 2976

Award 2976 in Docket 2417 is erroneous in that the majority blandly ignore the entire record in reaching their conclusions.

The majority emphasize the unsupported contention of the carrier and we quote from the pertinent paragraph of the award: "The carrier contended that the Carmen in the past have always built all the tools and fixtures that were needed by them * * *." No reference whatsoever is made or implied concerning the contention of the claimants. The majority failed or refused to consider the entire record, particularly the employes' contentions which are fully supported by the controlling rule and numerous supporting exhibits, and chose to render an award on the bare and unsupported contention of the carrier. We dissent.

/s/ James B. Zink

/s/ R. W. Blake

/s/ Charles E. Goodlin

/s/ T. E. Losey

/s/ Edward W. Wiesner