Award No. 3015

Docket No. 2624

2-KCS-MA-'58

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee D. Emmett Ferguson when the award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 3, RAILWAY EMPLOYES' DEPARTMENT, A. F. of L.-C. I. O. (Machinists)

KANSAS CITY SOUTHERN RAILWAY COMPANY, THE

DISPUTE: CLAIM OF EMPLOYES:

1. That under the current coordinated agreement with the Kansas City Southern, and Louisiana and Arkansas Railway Companies at Shreveport, Louisiana, the Carrier assigned other than Machinists the work of overhauling an air compressor in the coordinated facilities at Shreveport, Louisiana.

2. That accordingly, Carrier be ordered to discontinue using other than Machinists to perform this work, and compensate Mr. N. L. Kenney, machinist, hereinafter known as claimant, working in the consolidated shop at Shreveport, for two (2) days' pay at the time and one-half rate for August 5th and 6th, 1956.

EMPLOYES' STATEMENT OF FACTS: On August 5 and 6, 1956, employes of the Maintenance of Way Department removed an air compressor at Port Arthur, Texas and transported it by truck to Shreveport, Louisiana Coordinated Shops where the Maintenance of Way employes dismantled, repaired and assembled said air compressor.

The dispute was handled with the Carrier officials designated to handle such affairs, who all declined to adjust the matter. The agreements effective August 1, 1945, and amended May 22, 1946, between the Louisiana and Arkansas Railway Company, and System Federation No. 59. Coordinated Agreement between the Kansas City Southern Railway Company, Louisiana and Arkansas Railway Company, and System Federations Nos. 3 and 59, Railway Employes' Department, A. F. of L. is controlling.

Further, as shown above, we consider that the lease control of the machinery in the elevator at Port Arthur is an important factor in this controversy, and the attempt to wave it aside by a mere unsupported statement that it is immaterial should be given no consideration because such an agreement is not realistic.

Claim is made for August 5. That date was Sunday, and as shown on the original claim (Exhibit 1), the compressor was not received at Shreveport until the morning of August 6, 1956; hence, claimant would not be due anything for that date under any circumstances, and on August 6, 1956, claimant worked 10 hours and was paid for eight (8) hours at straight time rate and two hours and forty minutes (2′ 40″) (a call—7:30 P. M. to 9:30 P. M.). (As a matter of coincidence the call paid for was to repair the mechanical department shop air compressor.) He would not be due any payment for August 6, as he lost nothing.

This claim is nothing more than an attempt to write out Section 14 of the coordination agreement by fiat, an interpretation from this Division which would offset all the work we did to maintain the status quo of working conditions of the various crafts and classes of employes as they existed prior to the coordination of the facilities at Shreveport.

Claim should be denied and this Division is earnestly requested to so hold.

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 complaint here is that when the carrier used water service employes to repair a pump leased by a subsidiary corporation to a shipper-customer, that such action violated Rule 28, Assignment of Work, and Rule 46, Classification of Work. In substance, the rules say, "None but mechanics * * * shall do mechanics work", and "Machinists' work shall consist of * * * maintaining * * * pumps * * * and all other work generally recognized as machinists work."

Both parties have submitted facts showing how such work was performed in the past. The brotherhood shows that machinists have done it and the carrier shows that other than machinists, such as Maintenance of Way employes have done this work. From all of which we conclude that there was no practice confining the work exclusively to any one group. Practice becomes especially important in this claim because of the limitations of the co-ordination agreement which forbids changing "performance of work as between shopcraft and the Maintenance of Way employes."

The practice has been to use both classes of employes and neither may foreclose the other from the work in dispute.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 25th day of November, 1958.

DISSENT OF LABOR MEMBERS TO AWARD NO. 3015.

The majority choose to ignore Rule 46, Machinists' Classification of Work Rule and Rule 28 of the current agreement and when other than a machinist was assigned to do machinists' work, it violated the current agreement.

The current agreement recognizes and preserves the rules, rates of pay and working conditions of the claimant and stands as a protest against the erroneousness of Award No. 3015.

R. W. Blake

C. E. Goodlin

T. E. Losey

Edward W. Wiesner

James B. Zink