

Award No. 3193

Docket No. 2965

2-B&O-SM-'59

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Dudley E. Whiting when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 30, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L.-C. I. O. (Sheet Metal Workers)**

BALTIMORE AND OHIO RAILROAD COMPANY, THE
DISPUTE: CLAIM OF EMPLOYES:

1. That under the current agreement, other than Sheet Metal Workers were improperly assigned to maintain, repair and renew air pipe lines in the Eastbound Yards at Cumberland, Maryland commencing December 4, 1956.

2. That accordingly the Carrier be ordered to additionally compensate the following employes of the Sheet Metal Workers' Craft eight (8) hours each at the applicable straight time rate of pay for December 4, 1956 and each subsequent date thereafter that the afore-said violation occurred:

H. P. Northcroft

P. H. Lueck

R. Helmstetter

G. G. Buskey

EMPLOYES' STATEMENT OF FACTS: Prior to December 4, 1956, The Baltimore and Ohio Railroad Company, hereinafter referred to as the carrier, assigned sheet metal workers to secure and make ready the necessary material to renew a two and three inch air pipe line in the eastbound car yard at Cumberland, Maryland. After a part of the material had been made ready by the sheet metal workers, the carrier removed the sheet metal workers from the job.

On December 4, 1956 the carrier assigned its signal forces to renew and repair approximately 1200 ft. of two and three inch air pipe line in the eastbound car yards at Cumberland, Maryland. The majority of the air furnished by these lines is used to retard the movement of cars in the yard and has no connection with signal equipment whatsoever.

the kind and type of work here involved to the signal forces. This work does not belong to the shop crafts' employes. This issue as to whether this work belongs to the signal forces has been before the Adjustment Board, time after time. These awards are applicable on the property of this carrier. Standing alone, the weight of these numerous awards reached before the non-operating divisions is adequate authority for a positive ruling in favor of the signal forces as opposed to the shop craft forces.

The validity and application of these awards to this property and to the rules agreements found on this property cannot now be subjected to challenge.

The plain meaning of the presentation of this dispute before this Division is an attempt to re-open the issue adjudicated in the many awards cited. The carrier submits that it is placed in a most precarious position of having to respond, time after time, before this labor tribunal on the same issue. This Division and the Third Division of the National Railroad Adjustment Board have decided with some degree of absoluteness that this kind and type of work belongs to the signal forces. The carrier has every right to place reliance upon these numerous holdings.

The carrier submits that the work involved in the instant claim dealing with renewal of 2-inch and 3-inch air pipe lines at the retarder at Cumberland, Maryland, on December 4, 1956, belonged to the signal forces. The carrier submits that this claim in its entirety ought to be denied.

FINDINGS: The Second Division of the Adjustment Board, upon the whole record and all 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.

Parties to said dispute were given due notice of hearing thereon.

In 1947 the sheet metal workers requested assignment to them of pipe line repair in retarder systems and the carrier's chief engineer concurred. Shortly thereafter signal forces filed claim when sheet metal workers were assigned to such work and the Third Division of this Board upheld the right of the signalmen to such work in its Award No. 6203.

In our subsequent Award No. 1835, we held that maintaining and repairing of car retarders was "not work covered by the Shop Crafts' Agreement". Thus we find that both the Second and Third Divisions have found the 1947 interpretation by the carrier to be erroneous. Certainly, under those circumstances, it does not now afford a proper basis to overrule our Award No. 1835.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 27th day of April 1959.

DISSENT OF LABOR MEMBERS TO AWARD NO. 3193.

The work involved in this docket is sheet metal workers' work pursuant to the current agreement in effect between the parties. The Scope Rule reads as follows:

"Scope of Agreement.

The following rules and working conditions will apply to:

Machinists
Boilermakers
Blacksmiths
Sheet Metal Workers
Electrical Workers
Carmen

Their apprentices and helpers (including coach cleaners), in the

Maintenance of Equipment
Maintenance of Way
Signal Maintenance
Telephone and Telegraph Maintenance
Bolt and Forge Shop, Cumberland, Md., and

all other departments, performing the work specified herein, superseding all other rules and agreements."

Therefore, as the Scope Rule covers the department in which this work was done the award is erroneous.

R. W. Blake

C. E. Goodlin

T. E. Losey

Edward W. Wiesner

James B. Zink