

Award No. 3277
Docket No. 2862
2-NYC&StL-SM-'59

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee James P. Carey, Jr., when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 23, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L.—C. I. O. (Sheet Metal Workers)**

**NEW YORK, CHICAGO AND ST. LOUIS RAILROAD
COMPANY, THE**

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current agreement the Carrier improperly assigned other than Sheet Metal Workers to test and repair sanders on Locomotives at Brewster, Ohio, beginning August 8, 1956.

2. That accordingly the Carrier be ordered to additionally compensate one Sheet Metal Worker for eight (8) hours at the pro rata rate for the aforesaid date and each date thereafter until the violation ceases, to be divided equally between the following Sheet Metal Workers:

E. R. Roenbaugh
W. M. Penley
L. J. Peterman
Frank Smith

W. D. Krichbaum
N. D. Milhoan
Philip D. Flood
A. J. Finn

EMPLOYEES' STATEMENT OF FACTS: The New York, Chicago and St. Louis Railroad Company (Wheeling and Lake Erie District), hereinafter referred to as the carrier, employs in its Brewster, Ohio roundhouse, sheet metal workers to perform all necessary sheet metal work in accordance with the terms of the current agreement. Prior to August 5, 1956 the work of testing and repairing sanders on locomotives worked at Brewster was performed by the sheet metal workers named in part 2 of the "Claim of Employees", who will hereinafter be referred to as the claimants. (See statement of employees submitted herewith and identified as Exhibit A)

The work of testing sanders consist of entering the cab of the locomotive, applying the sander valve, front and rear, walking around the locomotive and

There is no similar item appearing in Rule 46 covering sheet metal workers and neither has general engine inspecting ever been work generally recognized as sheet metal workers' work. The mere fact that the employes do not protest inspections by enginemen, foremen, general foremen, and others, should be ample evidence that such work is not included in Rule 45 or 46.

Rule 13(D) is apparently erroneously referred to repeatedly by the employes in handling on the property. It is assumed that they intended to refer to Rule 12(D) which reads as follows:

"(D) Except as specifically required by the Craft Rules of this Agreement, the Company will not change its established practice with respect to the separation of work between crafts unless an agreement covering such change is negotiated with System Federation No. 23. Neither will the Company make permanent assignment of any new processes to any of the crafts hereby governed except by agreement negotiated with System Federation No. 23. Pending agreement as to the assignment of new processes, the Company may use any competent employe to perform the work embraced by such new processes."

It is obvious that there has been no change in the practice with respect to separation of work between crafts as referred to in this rule. The discontinuance of any work is not a change as referred to in this rule.

The claim is entirely without merit and should be denied.

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.

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

It is claimed that the carrier improperly assigned other than sheet metal workers to test and repair sanders on locomotives at Brewster, Ohio, on and after August 8, 1956. In progressing this dispute on the property, the organization consistently referred to the matter of "checking the condition of the sanders". Checking the condition of sanders would be seem to be synonymous with inspection and testing and ordinarily independent of cleaning, adjusting, or making repairs.

The record clearly establishes that the work of repairing, adjusting and cleaning sanders has been performed at Brewster, Ohio, only by sheet metal workers before and since August 8, 1956. It is also shown that members of the machinists craft have always inspected engines, including sanders, at Brewster, and that prior to August 8, 1956, the carrier had required a duplicate inspection of sanders by sheet metal workers. It appears that since substantially completing dieselization in August 1956, the additional inspection of sanders by sheet metal workers was deemed unnecessary and discontinued. On the basis of the instant record, we think the carrier's decision

in this respect was a proper exercise of managerial discretion and was not precluded by the applicable provisions of the agreement. The instant claim, therefore, lacks merit.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 24th day of June 1959.

DISSENT OF LABOR MEMBERS TO AWARD NO. 3277.

In Award No. 3277 the majority admit that prior to August 8, 1956, sheet metal workers tested sanders. Rule 12 of the controlling agreement reads as follows:

“(A) (1) Mechanics’ work, as hereinafter defined, shall be performed only by regularly employed mechanics or apprentices in the respective crafts: . . .”

“(D) Except as specifically required by the Craft Rules of this agreement, the Company will not change its established practice with respect to the separation of work between crafts unless an agreement covering such change is negotiated with system Federation No. 23.”

The carrier admits no negotiations were held to change the practice of having sheet metal workers test sanders as per paragraph (D) of the controlling agreement. Therefor the agreement was violated when such testing of sanders was transferred from the sheet metal workers to other employees.

The award is erroneous and we dissent.

R. W. Blake

C. E. Goodlin

T. E. Losey

Edward W. Wiesner

James B. Zink