

Award No. 3429

Docket No. 3162

2-UP-BM-'60

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Francis B. Murphy when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 105, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L.—C. I. O. (Boilermakers)**

UNION PACIFIC RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the terms of the current agreement the Carrier improperly assigned work of the Boilermakers' Classification to the Maintenance of Way Employees at Los Angeles, California.

2. That accordingly the Union Pacific Railroad be ordered to additionally compensate employes of the Boilermakers' craft at their applicable straight time rate of pay for the aforesaid violation as follows:

V. R. Carrizosa, Boilermaker Welder	— 101 Hours
H. F. McDonald, Boilermaker Welder	— 101 Hours
G. P. Ramos, Boiler Washer	— 101 Hours
C. Adams, Boiler Washer	— 101 Hours
J. H. Tucker, Boiler Washer	— 100 Hours
Total Hours	— 504 Hours

EMPLOYEES' STATEMENT OF FACTS: At Los Angeles, California, the Union Pacific Railroad Company, hereinafter referred to as the carrier, maintains a force of boilermakers and helpers in their Los Angeles Shops who hold seniority at that point in accordance with the rules agreement.

On or about June 12, 1957, the remodeling and repairing of two tanks in connection with retaining cleaning fluid for cleaning of locomotives and parts at the Los Angeles Maintenance of Equipment Shop was begun. In the process of this remodeling and repairing of these two tanks, three tanks were brought into the Los Angeles Backshop where the first tank, 16 feet long and 10 feet in diameter, made of 1" sheet steel, was cut apart for

ready for installation. There is no basic difference here, because it happened to be determined later that the tanks were not suitable, and those who were to make the installation modified them as part of the installation function. In neither case would shop craft employes have the exclusive right to prepare and install liquid storage tanks.

In short, nothing was done in the removal of the old tanks or the preparation and installation of the newly delivered tanks that was not a necessary incident to and a part of the installation procedure as a whole.

It should be noted that contrary to what the organization implies (carrier's Exhibit B), the removal of the old tanks and the preparation or modification of those installed, did not take place in the back shop. The work was performed outside shop buildings near the point of installation in the vicinity of the wash track.

The claim is 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.

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

Part of carrier's operation at Los Angeles is the maintenance and cleaning facilities for its diesel motive power equipment. Some of its storage tanks used with this activity became inadequate for service requirements and had begun to deteriorate so it was decided to install new tanks with greater capacity.

The Maintenance of Way Steel Gang assigned in the Los Angeles Yard was used to make modification to one of the tanks, another was remodeled to apply suitable connections, and they were then installed in place at the wash track and made ready for use.

The instant claim arose because the Boilermakers' Organization contends that this work should have been performed by claimants who are members of their organization and that the assignment of this work to the Maintenance of Way Employes was a violation of the Agreement.

The carrier contends that work such as this, namely, all work which relates or is incidental to the construction and erection of structures or other fixed installations, including storage tanks, has, as a matter of long practice, been performed by the Maintenance of Way forces.

The record shows that the tanks at the wash rack that were replaced were originally fabricated and installed by Maintenance of Way forces and there was no protest nor is there a denial of this contention in this record.

Exhibits in this record show that during 1946, a lub oil tank was remodeled and installed by the Maintenance of Way forces. In 1947, at the Los Angeles Back Shop other tanks were installed by the same forces.

The Organization contends that Boilermakers' Special Rule 73 classifies this work as work belonging to them. We are unable to agree with this contention in light of the other installations as shown in the evidence having been performed by the Maintenance of Way Employes and the original installation which was being improved and the capacity enlarged having been built by the Maintenance of Way Organization.

While Special Rule 73 may define some of the work done as work that may be done by the Boilermakers' Craft, the evidence as presented does not sufficiently show that it can not be performed under these circumstances by the Maintenance of Way Department. In fact, this record indicates that the Boilermakers' Craft raised no objection to Maintenance of Way Employes doing similar work in the past.

For these reasons and in full consideration of the evidence, we are unable to sustain this claim.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 4th day of April, 1960.

DISSENT OF LABOR MEMBERS TO AWARD NO. 3429

Award 3429 (Docket 3162) is erroneous. It is evident the majority (five carrier members and the referee) has considered this docket in a haphazard manner and rendered an award that fails to give any consideration whatsoever to the detailed presentation of the employes. The reasoning of the majority is without factual support and clearly shows that the entire record in this docket was not given even casual consideration in that those points set out as the basis for a denial award are entirely from the carrier's distorted contentions.

The controlling rule is disregarded. Boilermakers' Special Rule 73 specifically and clearly spells out in unambiguous terms that the work outlined in this docket is boilermakers' work. This is the only rule in any agreement on this property that covers the work outlined in this docket. The majority has ignored the controlling agreement in order to reach the erroneous conclusions set out in Award 3429. We dissent.

R. W. Blake

Charles E. Goodlin

T. E. Losey

Edward W. Wiesner

James B. Zink