

Award No. 3671
Docket No. 3573
2-NTPC-SM-'61

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Richard F. Mitchell when the award was rendered.

PARTIES TO DISPUTE:

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

THE NORTHERN PACIFIC TERMINAL COMPANY OF OREGON

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current applicable agreement the Carrier improperly assigned Electricians to the fitting and application of new hose to yard water hose cart.

2. That the Carrier be ordered to compensate Sheet Metal Worker Frank Paola additionally in the amount of four (4) hours at his straight time rate.

EMPLOYEES' STATEMENT OF FACTS: On June 24, 1958 the carrier assigned members of the electricians' craft to the fitting and to the installation of a new hose to a yard water hose cart used in connection with yard work.

The work in question involved the placing of hose connections or hose fittings in each end of new hose and connecting same to hose cart.

This dispute has been handled with the carrier up to, and including, the highest officer designated by the company with the result that they have declined to adjust it.

The Union Pacific Agreement effective September 1, 1949 as it has been subsequently amended is controlling.

POSITION OF EMPLOYEES: It is submitted that the action of the carrier in this dispute is contrary to the provisions of the rules of current applicable agreement when members of the electricians' craft were assigned to work that is generally recognized as that of sheet metal workers as referred to in Rule 109 which for your ready reference reads:

the work in question indicated organization's acceptance of existing practice in this regard. Thus in effect the Division is now being asked to amend Classification of Work Rule 47 for the purpose of assigning the disputed work to carmen. This, of course, we have no power to do."

As in the foregoing case, this Division is now being asked to amend the classification of work rule (Rule 109) for the purpose of assigning the disputed work exclusively to the sheet metal workers. And, as stated above, this, of course, the Division has no power to do. If to be done at all, it must come through proper negotiations stipulated in Section 6 of the Railway Labor Act.

Petitioner, up to this time, has failed not only to deny that other crafts have performed the work here in dispute, but also to refer the carrier to any awards of this Honorable Board wherein the work of applying connections to rubber water hose is work belonging exclusively to the sheet metal workers' craft.

This Division has held, as have the other three, that where a rule is silent as to a certain issue or interpretation, the past practice of the parties is looked to as the best indication of how those parties intended such rule to be applied. As stated, and here repeated, the past practice on the property has been for workmen of practically any craft using rubber water hose to apply rubber hose connections to such hose when same have been needed.

CONCLUSION:

The carrier has clearly shown that there are no rules in the current agreement which support the instant claim, and that the past practice likewise does not support the claim; therefore, same is without merit and should be denied by this Honorable Board. The Board is respectfully requested to so find.

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 waived right of appearance at hearing thereon.

On June 24, 1958 it became necessary to attach a new hose to a two wheeled hand truck, referred to as the "water hose cart," used by the electrician to supply water to radiators and various motors located underneath certain passenger cars. The water hose cart in question was used exclusively by the electricians. An electrician attached said hose connection to the hose. Claimant contends the work performed belonged exclusively to the Sheet Metal Workers craft and submitted a claim for four hours at his straight time rate.

The claim based on rule 109 — Classification of work and ruling #19 — consisted in attaching a new water hose to the water hose cart. This re-

quired that the ordinary water hose connections be attached to each end of the hose.

In rule 109 — water hoses are not mentioned, nor does the word “pipes” appearing therein mean rubber hose of any kind, for it would be impossible to thread or braze rubber hose. The work performed simply consisted of attaching the ordinary water hose connection.

No intent to assign the work to Sheet Metal Workers has been shown by the record.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 15th day of February 1961.