

Award No. 3953

Docket No. 3810

2-AT&SF-BM-'62

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Charles W. Anrod when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 97, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L. - C. I. O. (Boilermakers)**

**THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY
- Western Lines -**

DISPUTE: CLAIM OF EMPLOYES:

1. That under the terms of the current agreement the Carrier improperly assigned work of the Boilermakers' Classification to Shop Extension Forces at Albuquerque, New Mexico.

2. That accordingly the Atchison, Topeka and Santa Fe Railroad be ordered to additionally compensate employes of the Boilermakers' Craft at their applicable rate of pay, for the aforesaid violation as follows:

Two Boilermakers who will be named each 8 hours or 16 hours total compensation.

EMPLOYES' STATEMENT OF FACTS: At Albuquerque, New Mexico, the Atchison, Topeka and Santa Fe Railway maintains a force of boilermakers and helpers in their Diesel repair shops and Central Work Equipment Shop. The Atchison, Topeka & Santa Fe Railway will hereinafter be referred to as the carrier.

On or about February 12, 1958, the carrier elected to add to their Diesel Locomotive Repair Shop Equipment, a metal tool box for use of storing tools, storage of wiping rags and shop towels. The said tool box was fabricated of 12 gauge sheet-steel and dimensions were approximately 32" x 48"—height approximately 32".

Carrier assigned the fabrication and installing to their Shop Extension Forces, which forces are a part of the sheet metal workers craft.

This dispute has been handled with all officers of the carrier designated to handle such disputes including the highest designated officer of the carrier, all of whom have declined to make a satisfactory adjustment.

It will be apparent from the above that the handling complained of in this dispute stems from an established practice that has extended over a period of more than thirty (30) years and throughout revisions of the agreement without abrogation. The actions of the employees and their representatives clearly denote that they are through the medium of their claim in the instant dispute, requesting the Board to grant them that which they have, by their own actions, previously recognized is not required under the agreement rules.

In conclusion, the carrier respectfully reasserts that the employees' claim in the instant dispute is wholly without support under the governing agreement rules and the long-standing practices thereunder, and should, for reasons expressed herein be dismissed or denied in its entirety.

FINDINGS: The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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.

The instant claim involves essentially the same factual situation and legal questions as those discussed in our Award 3939. What we have said in that Award with respect to the building of a scaffold in connection with the construction and installation of a permanent Diesel Repair Platform in the Carrier's Diesel Repair Shops at Albuquerque, New Mexico, is also applicable to the construction and installation of the metal tool box on such a platform with which we are here concerned.

Accordingly, we hold that the instant claim is without merit for the reasons stated in our aforementioned Award. As a result, it becomes unnecessary to rule on the Carrier's procedural objections and we express no opinion on the validity thereof.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 28th day of February 1962.