

Award No. 3957

Docket No. 3758

2-GN-MA-'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. 101, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. - C. I. O. (Machinists)**

GREAT NORTHERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES: 1. That other than Great Northern Railway Machinists were used in violation of the current agreement to perform Machinists work on crane R-1839 on June 30, 1959.

2. That the Carrier therefore be ordered to compensate Hillyard Shop Machinists Samuel G. Osso and Donald E. Burbank each in the amount of eight hours' pay at the applicable rate of time and one-half.

EMPLOYEES' STATEMENT OF FACTS: The Great Northern Railway Company, hereinafter referred to as the carrier, employs machinists at its Hillyard Shop to perform, among other things, the work involved in this dispute. Among the machinists employed at Hillyard are Samuel G. Osso and Donald E. Burbank, hereinafter referred to as the claimants.

On June 30, 1959, the crane operator and a truck driver performed machinists repair work on crane R-1839 in that they repaired the crane by removing the worn out vertical and horizontal drive shafts and gears from said crane and replaced and adjusted new and reuseable parts in the crane.

This dispute was handled with all carrier officials designated to handle disputes, all of whom declined to adjust it.

The Agreement effective September 1, 1949, as subsequently amended, is controlling.

POSITION OF EMPLOYEES: It is submitted that the foregoing statement of dispute is adequately supported by the terms of the aforementioned agreement made in good faith between the Carrier and System Federation No. 101 in pursuance to the amended Railway Labor Act because:

1. The work covered in the above "Statement of Claim" and "Statement of Facts" is expressly impanelled in the scope of the "MACHINISTS' SPECIAL RULES" 48, 49, 51 and 52.

the claimant organization even obtained representation of the machinists' craft on this property, has been to assign the work involved in this claim to employes and persons other than those in the machinists' craft.

3. Past awards of the Second Division of the National Railroad Adjustment Board have consistently denied similar claims based on similar rules, submitted by employes of the machinists' craft on other carriers. Those awards are based on findings that rules such as those cited by the organization in this case provide no support for the claims, and that long existing practice similar to that shown by the carrier in this case, was conclusive in the carrier's favor.

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 waived right of appearance at hearing thereon.

This dispute arises out of the following facts :

On June 30, 1959, it was discovered that the vertical and horizontal drive shafts and, as contended by the Organization in its submission brief, the gears of Machine R-1839, a large off-track crawler combination crane and shovel, were in need of repair. At that time, the machine was working on Bridge and Building (B&B) Department work at an on-line location several miles away from the Carrier's Hillyard shop, Spokane, Washington. The machine operator and a B&B truck driver, both maintenance of way employes, removed the inoperative parts from the machine. Said parts were then taken by a B&B Department employe to the Hillyard shop where they were repaired by machinists S. G. Osso and D. F. Burbank, the Claimants in this case. After the necessary repairs were made by them, the B&B Department employe returned the repaired parts to the work location of the machine and replaced them thereon.

The Claimants contend that employes other than machinists employed by the Carrier were improperly used in the above described instance to perform machinists' work. Each of them requests, therefore, eight hours' pay at the rate of time and one-half.

For the reasons hereinafter stated, we are of the opinion that the instant claim is without merit.

The uncontroverted evidence proves that the maintenance of way employes performed no repair work on the defective parts in question and that the Claimants actually repaired said parts. All that the maintenance of way employes did was to remove the inoperative parts from the machine, transport them to and from the Hillyard shop, and re-install the repaired parts on the machine. The work performed by them merely involved some simple routine tasks occurring in the day-to-day handling of the machine. It is neither asserted by the Claimants nor does the available evidence show that said work required any experience, skill or training within the contemplation of Rule 48 of the labor agreement. In other words, it was purely incidental to the actual repair work. Consequently, the work here in dispute was not covered by Rule 49 of the agreement and did not, therefore, come under the exclusive

jurisdiction of the machinists' craft. See: Awards 1000, 1996, 2223, and 3824 of this Division.

For the above stated reasons, it becomes unnecessary to rule on the Carrier's contention that the assignment of the work here complained of to employees other than machinists was sanctioned by past practice and we express no opinion on the validity of said contention.

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.

LABOR MEMBERS DISSENT TO AWARDS NOS. 3956 and 3957

Rule 49 of the current agreement reads in part as follows:

"Machinists' work shall consist of laying out, fitting, adjusting,
* * * assembling, maintaining, dismantling and installing * * *
pumps, cranes, hoists, * * * ." (Emphasis ours.)

The work involved in these two disputes was specifically the dismantling and installing of hoist unit and an oil pump. There is no provision in the governing agreement to exclude any assembling, maintaining, dismantling and installing regardless of the amount of such work.

Webster's Dictionary defines the following words of Rule 49 as follows:

1. "Assembling" To fit together parts of.
2. "Maintain" To hold or keep in any condition, especially in a state of efficiency. 2. To keep up.
3. "Dismantle" To strip, to divest.
4. "Install" To establish in a place.

Rule 42(a) prescribes that:

"None but mechanics or apprentices regularly employed as such shall do mechanics work as per Special Rules of each craft, * * * ."

The majority disregarded the agreement governing the performance of this work. Therefor the awards are in error.

Edward W. Wiesner

C. E. Bagwell

T. E. Losey

E. J. McDermott

James B. Zink