Award No. 4262

Docket No. 3857

2-CB&Q-BM-'63

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 95, RAILWAY EMPLOYES' DEPARTMENT, A. F. of L. - C. I. O. (Boilermakers)

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES: (1) That under the current agreement rules, other than Boilermakers were improperly assigned to install and apply an I-beam assembly in the tool room to support hoist to lift heavy material on work bench, Havelock Shop, December 10, 1958.

(2) That accordingly the Carrier be ordered to compensate Boilermaker C. Vogel and Boilermaker Helper A. Bettenger, in the amount of eight (8) hours pay each at their respective applicable rate for the aforesaid violation.

EMPLOYES' STATEMENT OF FACTS: On December 10, 1958, the Burlington Railroad Co., hereinafter referred to as the carrier, at its Havelock, Nebr. Car Department Shops, assigned B & B Department employes to install a length of I-beam assembly to the cross members of the building structure for the sole purpose of supporting a hoist to lift heavy material on a work bench. It has been an established and accepted practice, since the hoist has been placed in the shop on I-beams fastened to the cross members of the building structure, or fastened to one of the upright post or column, in order for the hoist to operate in a swinging position, for the carrier to assign the work to the boilermakers' craft. The referred to work, prior to December 10, 1958, and identical or similar work since that date has been assigned to the boilermakers' craft, as evidenced by copy of General Chairman Charles Parker's note under date of October 16, 1959 to Mr. Angier (for his ready reference) with reference to securing further facts on the claim. Boilermaker G. Vogel and Boilermaker Helper A. Bettenger, hereinafter referred to as the claimants is regularly employed by the carrier as boilermaker and helper at the Havelock Shops and was available to perform the work had they been given an opportunity to do so.

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

This letter agreement was made in 1948, as a result of claims by boilermakers to the work of riveting, and certain angle iron work on the traveling cranes at the West Burlington locomotive shops. These claims involved work on the cranes themselves, (which had been done by B&B men), not the supporting girders or I-beams. The claims were paid, and the agreement was made that while shop craft employes would take care of the maintenance of the cranes, the crane track and supporting girders would come under the maintenance of way employes' jurisdiction.

The principles agreed to in 1948 were applied to this case at Havelock. The B&B men were not assigned to install the 1-ton Sprague electric hoist. This item of work was given to the shop crafts. But B&B men were required to install the I-beam which was secured to the roof of the building, and became the fixed girder and track which supported this hoist. This claim seeks to deprive the B&B men of that portion of the work which System Federation No. 95 agreed was theirs on the traveling cranes, in the March 31, 1948 letter agreement.

The existence of this agreement deprives the organization of all its arguments. Petitioner cannot allege that all I-beam work in the shops belongs to the boilermakers, when it has agreed that fixed girders supporting traveling cranes belongs to maintenance of way employes. It cannot say that since this I-beam failed to strengthen the roof it should not have been installed by B&B men, for crane tracks or supporting girders certainly do not strengthen the building, and Petitioner has agreed that they belong to the B&B men. Nor can the boilermakers allege that such installations are "generally recognized as boilermakers' work," within the meaning of Rule 50, when they have agreed that on traveling cranes, the same work belongs to the maintenance of way employes.

The claimants herein request payment of eight hours each in retribution for this alleged violation. However, it cannot be denied that no damage was suffered by them, since both Messrs. Vogel and Bettenger were employed on December 10, 1958 and worked eight hours on that date. Having suffered no loss in wages, they are not entitled to the damages claimed herein. This elementary principle is one that must enter into the proper determination of this dispute, regardless of how the various agreement provisions may be interpreted by this Board.

In summary, the carrier insists this claim cannot be sustained because:

1. The bolting of this I-beam to the roof structure had no connection whatever with boilermakers' work and cannot be considered within Rule 50.

2. It was a job for employes in the bridge and building department, since it was a fixed alteration to the building itself.

3. The boilermakers' organization and System Federation No. 95 recognized that work of this nature belongs to B&B men in the agreement allocating work on traveling cranes.

4. Claimants suffered no damage and cannot be awarded the money claimed, in any event.

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.

On December 10, 1958, an I-beam which had been removed from the Carrier's former locomotive shops at Denver, Colorado, was installed in the tool room of its car shops at Havelock, Nebraska. This I-beam was ten inches high and twenty feet long. It was secured with ten ¾" x 2" bolts to the steel girders which form part of the roof structure of the Havelock shops. Both the removal of the I-beam at Denver and the installation thereof at Havelock were performed by Bridge and Building Department employes who are represented by the Brotherhood of Maintenance of Way Employes. After the I-beam was installed, a one ton electric hoist was attached to it by employes covered by the labor agreement between the Carrier and the Organization.

The Claimants, Boilermaker G. Vogel and Boilermaker Helper A. Bettenger, who are employed at the Havelock shops filed the instant grievance in which they contended that the Carrier improperly assigned the installation of the I-beam to employes other than boilermakers. They requested compensation in the amount of eight hours each at the pro rata rate. The Carrier denied the grievance.

1. In support of their claim, the Claimants primarily rely on Rule 50 of the applicable labor agreement which reads, as far as pertinent, as follows:

> "Boilermakers' work shall consist of . . . **boilermakers' work in connection with** the building and repairing of steam shovels, derricks, booms, housing, circles, and coal buggies, I-beam, channel iron, angle iron, and T-iron work, all drilling, cutting and tapping and operating rolls **in connection with boilermakers' work;** oxy-acetylene, thermit and electric welding on work generally recognized as boilermakers' work, and all other work generally recognized as boilermakers' work." (Emphasis ours).

A careful examination of said Rule has convinced us that I-beam work is specifically covered thereby only if such work is performed in connection with boilermakers' work. Any other construction would run counter to the clear and unambiguous language of the Rule. We fail to see any such connection with respect to the installation of the I-beam in question. The I-beam was twenty feet long when it was removed at Denver and the same length was installed at Havelock. The record does not disclose that any assembling, cutting, fabricating, forming, shaping, welding on other typical boilermakers' work (as described in the **Dictionary of Occupational Titles, Part I: Definitions of Titles,** Washington, D. C., U. S. Government Printing Office, 1939, p. 82) was involved in the installation of the I-beam. All that the B & B Department employes did was merely to secure the I-beam with ten bolts to the roof girders. The fact that the attachment of a one ton electric hoist to the I-beam was work covered by the applicable labor agreement is immaterial because such work was separate from and independent of the installation of the I-beam. Under these circumstances, we are of the opinion that said installation was not performed in connection with boilermakers' work as contemplated in Rule 50.

2. The next question requiring decision is whether the installation of the I-beam constituted "other work generally recognized as boilermakers' work" within the purview of Rule 50. We do not think so. The record shows that I-beams have been installed by boilermakers at the Havelock shops. Yet this fact is of no decisive significance unless they have performed such work exclusively. See: Awards 1110 and 4259 of the Second Division. The available evidence does not permit such a finding. On the contrary, the evidence on the record considered as a whole proves that I-beams have been installed by boilermakers, B & B Department employes or laborers. Hence, it cannot be said that the installation of I-beams as such has generally been recognized as work exclusively belonging to the boilermakers' craft.

3. Since we believe that the instant claim is without merit for the reasons stated hereinbefore, it becomes unnecessary to rule on the Carrier's further arguments 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 11th day of July, 1963.

DISSENT OF LABOR MEMBERS TO AWARD 4262—DOCKET 3857

It is obvious from the evidence of record in this case that the findings of the majority are erroneous for the following reasons.

The evidence of record undisputedly discloses that the I-beam used in the Havelock shop was a part of the electric hoist assembly and falls well within the collective agreement rights of the Boilermakers classification of work rule 50.

The record further discloses that the Boilermakers installed I-beam, angle iron etc., in this same shop for the installation of other electric hoists and jib cranes.

The record does not disclose that any craft other than Boilermakers have ever installed I-beam, angle iron, etc., for the installation of electric hoists, jib cranes, etc.

We also fail to comprehend the reference of the majority to the "Dictionary of Occupational Titles, Part I: Definitions of Titles, Washington, D. C., U. S. Government Printing Office, 1939, p. 82)" as the case should have been decided on the basis of the collective agreement governing the performance of Boilermakers work and the evidence of record before this Division.

The award should have been in the affirmative.

C. E. Bagwell

T. E. Losey

James B. Zink

E. J. McDermott

R. E. Stenzinger