

Award No. 4625

Docket No. 4619

2-SLSF-MA-'64

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Dudley E. Whiting when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 22, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L.-C. I. O. (Machinists)**

ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYES: 1. That under the current agreement the Carrier on May 18, 1962, improperly assigned water service employees to lay out machine fit and adjust a rail motor car to accommodate a larger engine and to install said engine.

2. That accordingly the carrier be ordered to additionally compensate Machinists R. W. Adams, Jr. and C. E. McKinney, account others performing this work in the amount of four (4) hours at the pro rata machinists' rate.

EMPLOYES' STATEMENT OF FACTS: A new and much larger engine was installed in this rail motor car by two water service employees on May 18, 1962. This necessitated that the rail motor car be altered considerably and the necessary adaptations made (several being therefore necessary) in the assembly of the rail motor car to accommodate this larger gasoline engine into functioning position in the rail car itself.

This repair and assembly of this car and engine was performed in the old abandoned steam generator building, at Amory, Miss. directly across tracks from diesel shop—after the rail motor car had been moved out of the water service shops following dispute with Machinists on removal of this gasoline engine from same motor car April 6, 1962 (time claims pending). The work was performed near the diesel shop, in this building directly across the tracks and within the terminal at Amory, Miss.

POSITION OF EMPLOYES: Employees contend our agreement effective January 1, 1945, amended June 1, 1952, gives to machinists the right to perform the work, in dispute above.

We rely on the following rules:

Appendix, Page 64, November 21, 1950: "It is understood that this agreement will apply to those who perform the work specified in this agreement in the maintenance of equipment department, Reclamation plant, and to water service mechanics and their helpers,

The claims were initially presented to the carrier's mechanical department general foreman. The carrier took and preserved the position at each level of handling on the property that the mechanical department foreman, and each succeeding mechanical officer, was not the officer of the carrier authorized to receive such claims. It was pointed out at each appeal step that the claims should have been presented and progressed through the appeal channel of the maintenance of way department. The organization, nevertheless, progressed the claims through mechanical department officers up to and including the carrier's highest officer designated to handle such matters, contrary to the requirements of the provisions of Article V of the August 21, 1954 Agreement. For these reasons the claims are defective and the board should refuse jurisdiction thereof.

Without receding in any manner from the position outlined above, the carrier will proceed at this point with the discussion of the merits of the claim.

The question at issue, on the merits, as understood by the carrier is whether or not the claimants have the exclusive contractual right to perform the work described herein.

The organization is contending that the carrier improperly assigned water service employes to lay out, machine, fit and adjust a rail motor car to accommodate a larger engine and to install said engine. (Item 1 of its statement of claim).

First, there was no machine work necessary to be performed to "set-in" the motor-car in question. The engine placed in the motor-car in question was a new factory engine and the motor-car engine "No. 51 relief engine", which was removed by water service employe, Naron and another employe, was transferred to another point on the Southern Division and replaced a badly worn ROC engine in another motor-car, and finally that bad order relief engine was forwarded into the roadway equipment shop for rebuilding. The new RKB two cycle engine in question made by Fairmont is so constructed that it is merely a set-in operation and its design is such that it can replace a Fairmont model ROC engine readily without any machine work. The work necessary to be performed in replacing a Fairmont ROC engine with an RKB twin cylinder engine is nothing more than a set-in and set-out operation which amounts to removing a cotter key, loosening and tightening bolts and set screws.

The carrier attached ten statements in Case 6432 from employes of other classes or crafts whose duties and assignments require operation of track motor-car. Such statements show that machinists do not have the exclusive contractual right to remove and install motor-car engines as was done in this instance.

In conclusion, the carrier has shown that the claim is procedurally defective and for that reason alone should be dismissed.

If the board finds that it cannot agree with the carrier's position with respect to the procedural defect, then the claim should be denied for lack of agreement support. The claims have neither merit nor agreement support and should be denied in their entirety. The board is requested to find in favor of the carrier and deny the claims.

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.

The work involved here was the installation of a new engine in a rail motor car. As interpreted in Award 2315, Rule 53 specifically gives to machinists the installation of engines.

It should be noted that this agreement provides that it applies to shop work on roadway equipment in the Maintenance of Way Department.

The Carrier's contention that this claim should have been filed and progressed in the Maintenance of Way Department was disposed of in our Award No. 4624.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: William B. Jones
Chairman

E. J. McDermott
Vice Chairman

Dated at Chicago, Illinois, this 11th day of December, 1964.