

Award No. 4784

Docket No. 4719

2-SAL-SM-'65

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. 39, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Sheet Metal Workers)**

SEABOARD AIR LINE RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That the Carrier under the current Agreement improperly assigned employes of the Machinists Craft to disassemble the water radiators on Diesel Locomotive 1773.

2. That accordingly the Carrier be ordered to compensate Sheet Metal Workers L. G. Gaskin and E. U. S. Williamson, eight (8) hours each at time and one half rate.

3. That such work be assigned to the Sheet Metal Workers in the future.

EMPLOYEES' STATEMENT OF FACTS: The testing for water leaks and repair of diesel radiators is recognized as sheet metal worker's work. As a result of an interpretation of a jurisdictional award dated July 10, 1946, the machinists were assigned to disassemble and assemble the radiator sections. Protest was made by the sheet metal workers, but a question of another jurisdiction arose. Through the procedures recognized for settling jurisdictional disputes a request was made for an interpretation by the rejected Internationals. On August 13, 1959, a decision was rendered by the authorized representatives of the respective organizations awarding the work in question to the sheet metal workers.

The award was presented to the carrier, who has declined to make it effective. Every effort has been made to have the award made effective and have the work properly assigned even to the extent of having the International Representatives meet with Management in an attempt to explain its application. The carrier declined to accept the jurisdictional settlement and put it in effect on the property in letter dated December 9, 1960. Being unable to get the award made effective, Local Chairman J. M. Dees on November 16, 1962 entered time claim.

The record conclusively shows the claim to be without any merit whatsoever and it should accordingly be denied. While the burden of proof is upon the one making a claim, the organization has presented no evidence to support its claim that machinists were improperly assigned to perform work belonging to sheet metal workers. As held in Third Division Award 3523, without a referee, involving a claim on this property, "The claimant in coming before this board assumes the burden of presenting some consistent theory which, when supported by the facts, will entitle him to prevail."

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 claim really asks us to make effective an agreement between organizations not accepted by the Carrier. We are without authority to make agreements for the parties.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois this 15th day of October, 1965.