



Award No. 4914

Docket No. 4855

2-ACL-SM-'66

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Howard A. Johnson when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 42, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L.-C. I. O. (Sheet Metal Workers)**

ATLANTIC COAST LINE RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES:

1. That the Carrier improperly assigned other than Sheet Metal Workers on November 19, 1963, to install steam heat radiators in Round House Office Building in its Jacksonville, Florida Shops.

2. That accordingly the Carrier be ordered to compensate Sheet Metal Workers John Acorn and L. V. Stewart 37 hours each at time and one-half rate.

EMPLOYEES' STATEMENT OF FACTS: Sheet Metal Workers John Acorn and L. V. Stewart, hereinafter referred to as the claimants, are regularly employed by the Atlantic Coast Line Railroad, hereinafter referred to as the carrier, in the carrier's shops at Jacksonville, Florida and were available to have been used if called on their rest days and after bulletined hours.

On Tuesday, November 19, 1963, carrier assigned maintenance of way employees to install six (6) steam radiators in the roundhouse office building as per the following; one (1) in the roundhouse foreman's office, and one (1) in the car foreman's office, three (3) in offices located directly above the roundhouse and car foreman's offices and one (1) in the store room office located across the hall from the roundhouse foreman's office. Approximately sixty (60) feet of 1 1/4" pipe, thirty (30) feet of 1" pipe and numerous fittings were used in the installation. In addition, a 3/8" copper drain was installed on each radiator. Seventy-four (74) man' hours were consumed by four (4) Maintenance of Way Employees in making the installation.

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 failed to make satisfactory adjustment.

The agreement effective November 11, 1940 as it has been subsequently amended, is controlling.

stallation of wash basins, renewing toilet facilities and running water lines in the washrooms. The sheet metal workers claim that under Rule 302, members of that craft should have performed the work of installing wash basins, toilet facilities and running water lines * * * the record is replete with examples of this type of work being done by plumbers. We find as a fact that the work involved herein is plumbing work, and therefore, a part of the work which may be performed by Maintenance of Way employees."

The desire of the organization to include this work in its classification of work rule apparently prompted the filing of this dispute, as well as the prior dispute, with your Board, and carrier respectfully requests that the claim be denied.

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.

Claim 1 is that the Carrier improperly assigned Maintenance of Way employes to install six steam radiators in various offices and a store room in the roundhouse office building, involving about ninety feet of pipe and numerous fittings.

The Employees rely upon the provision of Rule 302:

"Sheet metal workers' work shall consist of * * * pipefitting in shops, yards, buildings, on passenger coaches and engines of all kinds, * * *; the bending, fitting, cutting, threading, brazing, connecting and disconnecting of * * * steam pipes;" etc.

The Carrier alleges that this provision "was designed to embrace pipefitting work in connection * * * with repairs to locomotives and cars, and not work such as is here involved". But no such limitation appears in the rule.

Annexed to the Employees' Submission as exhibits are the affidavits of five men who had worked for the Carrier for from twenty to forty-one years as sheet metal workers, machinists, or machinist and foreman, stating that they had seen sheet metal workers install and maintain steam radiators and steam pipes, and that this work had always been considered the work of that craft.

The Carrier concedes that high pressure steam facilities are within sheet metal workers' jurisdiction, but argues that this "low-pressure steam heating system * * * is an integral part of the building;" that this work therefore comes within Maintenance of Way work as "repairs to buildings", and has been customarily so performed; and that any exceptions were in emergencies.

Annexed to the Carrier's Rbuttal, but properly objected to because not submitted on the property and also because not included in its Submission, are two affidavits stating that Maintenance of Way plumbers have performed plumbing work in various buildings in shop yards, and one affidavit stating that at Moncreif, Florida, two steam radiators in a store room were changed by Maintenance of Way employes "about the year 1953".

The Carrier relies upon Award 2483, in which the first two affidavits mentioned in the preceeding paragraph were used; but it relates to plumbing work and is not here in point.

In this state of the record, and in view of the want of any support in the Rules for the claimed distinction between high-pressure and low-pressure steam systems, Claim 1 must be sustained. Pay for work not performed is at the straight time rate; but the record does not show the time actually employed in pipefitting work.

AWARD

Claim 1 sustained.

Claim 2 sustained at straight time rate and remanded to the property for ascertainment of the actually used in pipefitting work.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 30th day of June 1966.