Award No. 5053
Docket No. 4875
2-WP-SM-'67

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. 117, RAILWAY EMPLOYES' DEPARTMENT, AFL-CIO (Sheet Metal Workers)

THE WESTERN PACIFIC RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES:

1. That under the current collective agreement it was improper to assign other than Sheet Metal Workers to perform work coming under the scope of the Sheet Metal Workers' contract with the Carrier at Sacramento, California November 4, 1963 to January 1, 1964.

THAT ACCORDINGLY THE CARRIER BE ORDERED TO:

(a) Cease and desist from using other than Sheet Metal Workers to perform work coming under the scope of the Sheet Metal Workers' contract with the Carrier.

(b) Additionally compensate Sheet Metal Workers C. Hoskins, H. Schultze, H. Bitz, J. Johnsen, J. Breedlove, D. Jenkins and D. Galloway (10) hours each at the rate of $2.741 per hour and H. Mahlin and P. Schultze (10) hours each at welders rate at $2.801. This is the established rate on the Western Pacific Railroad.

EMPLOYES' STATEMENT OF FACTS: The Western Pacific Railroad Co., hereinafter referred to as the carrier, maintains at Sacramento, California modern shop facilities for servicing, repairing, overhauling and upgrading of its rolling stock, including a fully equipped sheet metal shop.

Sheet Metal Workers C. Hoskins, H. Schultze, H. Bitz, V. Johnsen, J. Breedlove, D. Jenkins, D. Galloway and Sheet Metal Worker Welders H. Mahlin and P. Schultze, hereinafter referred to as the claimants, are regularly employed and assigned as such by carrier in its Sacramento Shops to perform work contained in the sheet metal workers' classification of work rule, Rule 90, of the controlling agreement.

Third Division Award 7965, Referee Edward A. Lynch, concerned the purchase of welded steel cases and relay panels or racks fully equipped for installation and in that award the board held:

> "While we hold in the instant case that the reasoning and finding of this Board in Awards 5044 and 4662 are applicable here, we reiterate (Award 5044):
>
> > 'The equipment was never purchased and delivered on the property of the Carrier for use until after the work claimed had been performed at the factory. The rights of employes never attached until the Carrier acquired possession of it.'
>
> It is not questioned that Carrier's signal employes performed all the work necessary to the installation of the equipment on Carrier's property.
>
> The claim will be denied."

The issues involved in these awards are identical in principle to that involved in the instant dispute. In every case, the organization claimed the carrier violated its agreement in purchasing manufactured parts and equipment. In each instance, the board recognized the fact that the purchase of parts and equipment is the sole function of the management. There was no work contracted out as here claimed. The carrier only purchased items on the open market in accordance with specifications furnished.

CONCLUSION

Carrier has conclusively shown that:

1. The effective agreement has not been violated and does not support the organization's claim.

2. Carrier does not have the necessary equipment to have manufactured the structural parts purchased.

3. Prior board awards have denied similar claims that are identical in principle.

For the above mentioned reasons, the instant claim is wholly without merit and carrier strongly urges it 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.

The record shows that although some work has been done at the Carrier's Sacramento Shops involving 16 gauge stainless steel or comparable metal, which has a yield point of from 45,000 to 55,000 pounds per square inch, the Carrier has always purchased parts which could not be satisfactorily made with its own equipment, and that its ten foot bending brake which is required for this work, is rated to handle material with a maximum yield point of 30,000 pounds per square inch, and cannot properly handle this metal, with a yield point from 50% to 83⅓% higher. The Employes allege in their Rebuttal that the Carrier has a brake bracing angle iron bending bar which increases its capacity to handle 16 gauge stainless steel; but they do not state that the bending brake as so assisted has handled such metal of the lengths here involved, which involve bends up to ten feet long. The claim must be denied.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 3rd day of February, 1967.

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