

Award No. 5495

Docket No. 5193

2-C&O-SM-'68

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 41, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Sheet Metal Workers)**

**THE CHESAPEAKE AND OHIO RAILWAY COMPANY
(Southern Region)**

DISPUTE: CLAIM OF EMPLOYEES:

1. That the Carrier violated the current agreement, particularly Rule 126A when other than sheet metal workers were utilized to disconnect air pipe Lines on stationary air compressor.

2. That accordingly the Carrier be ordered to compensate Sheet Metal Worker Harold Dean, two hours and forty minutes pay at punitive rate for March 28, 1965, for the aforesaid violation.

EMPLOYEES' STATEMENT OF FACTS: Harold Dean, hereinafter referred to as the claimant was employed by the Chesapeake & Ohio Railway Company, hereinafter referred to as the Carrier, as a sheet metal worker at Newport News, Virginia. The Carrier maintains several piers for loading and unloading ships, a passenger station, a car repair yard and locomotive shops to service locomotives at this city. Claimant's regular assignment is on Pier 14 unless otherwise instructed. On March 28, 1965, the Stationary Air Compressor required repairs and machinist was assigned to disconnect two ½-inch, two ⅜-inch and two ¼-inch air pipe lines on the Stationary Air Compressor. This Air Compressor furnishes air for the car and locomotive departments servicing trains.

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 declined to make satisfactory adjustment.

The Agreement effective July 1, 1921, and subsequent dates as indicated reprinted July 1, 1950, as subsequently amended is controlling.

POSITION OF EMPLOYEES: It is submitted by the Employees that the Carrier violated the provisions of Rule 126A of the current agreement when

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.

In repairing the governor valve of a stationary air compressor which supplies air used in servicing trains, a machinist disconnected the air lines leading to that valve. The employes claim that the work of disconnecting these air lines belongs exclusively to the sheet metal workers. A similar contention is made in a companion case, Award 2-5496, in relation to the reconnecting of these lines.

The carrier contends that this assignment was within the "running repair" provisions of the machinist and sheet metal worker rules which expressly permit the use of machinists for such work. The employes argue that the term "running repair" refers to work on locomotives and cars. While previous decisions applying the running repair provisions have all involved work on locomotives or cars, e.g., Award 2-2825 (Smith), Award 2-2826 (Smith), Award 2-2862 (Ferguson), and Award 2-3918 (Daugherty), it does not appear that this Board has ever decided whether running repairs are limited to locomotives and cars. Nor do we find it necessary to determine this question in this case.

The running repair provisions in the rules describing sheet metal worker and machinist work are express recognitions of the general principle that work generally within one craft can be performed by another craft when such work is incidental to work of the second craft. In Award 2-1996 (Donaldson) and Award 2-2255 (Carter), this Board held that carmen could connect and disconnect electric lines in the course of inspecting cars. In Award 2-3876 (Bailer), we held that employes in the firemen and oilers crafts could connect and disconnect hose used in supplying fuel for the power house. In Award 2-4962 (Johnson), we held that a machinist could disconnect and reconnect electrical wires in replacing the core of a heater. In Award 2-5165 (Weston), we held that a machinist could remove the front plate of a steam generator in order to make repairs to the burner. And, in Award 2-5327 (Weston), this Board held that electricians could remove cooler jackets in repairing the coolers.

The incidental work principle is not an exception to the rules restricting the performance of craft work to the respective crafts, but is merely a principle of interpretation in determining what work is within each craft. The incidental work principle is based on two premises: First, a description of a general task, such as the provisions in the machinists' rule for "maintaining . . . machinery", impliedly provides for the performance of each step within the skills of the craft inherent in the performance of that general task. Second, this implication is not negated by the fact that the same work is described in rules of one or more other crafts.

The running repair provisions were adopted before the incidental work principle was clearly articulated. We see nothing in their adoption which

evidences an intent to restrict the normal scope of the incidental work principle. This is particularly so in the case of routine repairs to equipment used in the day-to-day operation of the trains which do not require the equipment to be removed from service for any extended period of time. Such work, if not literally running repair, a question which we do not decide, is certainly so analogous to running repair work on locomotives and cars that there is no reason to believe the parties would have intended to treat it any differently.

The work of disconnecting pipes to permit the repair of machinery will in most cases be work incidental to the work of machinists or other crafts charged with the responsibility of repairing such machinery. This is not to say in all cases the work can be classified as incidental merely because it is necessary to the performance of that craft's work. See, for instance, Award 2-3657 (Bailer), where the removal of a hoist to permit the repair of a motor on a hoist was held not to be incidental to the repair of the motor. If the work in this case was not incidental to the work of the machinists because of the time or skill involved, it was the responsibility of the employees to make such evidence a part of the record below and to bring that record before us for our consideration.

In their rebuttal to the carrier's submission, the employees cite a 1920 interpretation by an assistant director of the United States Railroad Administration to the effect that machinists would not perform work like that involved in this case at points where sheet metal workers were employed. This interpretation was not participated in by the carrier and we find no persuasive evidence in the record before this Board that the parties have adopted this interpretation in administering their agreement. There is in fact no evidence in or attached to the employees' submission. The carrier's admission that sheet metal workers have performed this work does not supply this deficiency, for such admission is coupled with the assertion that in most cases machinists have performed the challenged work. This is consistent with the challenged work falling within the descriptions of both crafts. That the parties have not adopted this interpretation is not surprising in light of the fact that it was made before the adoption of the running repair provisions, which, as discussed above, evidence at the very least a general intent contrary to that interpretation in circumstances like those presented by this case.

Without considering whether the 1920 interpretation is a public record which can be judicially noticed by this Board or is a matter of evidence which must be first presented on the property, we would like to note that it would have been more in accordance with the intent of the Rules of Procedure of this Board, Circular No. 1, issued October 10, 1934, for the employees to have raised this particular document in their initial submission. Cf. Award 2-1996 (Donaldson).

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 28th day of June, 1968.

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