



Award No. 5718

Docket No. 5554

2-DM&IR-SM '69

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Gene T. Ritter when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 71, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (SHEET METAL WORKERS)**

DULUTH, MISSABE & IRON RANGE RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That the Duluth, Missabe and Iron Range Railway Company at Proctor, Minnesota, violated the controlling agreement when that Carrier assigned other than sheet metal workers to perform work that is generally recognized as sheet metal workers' work.
2. That accordingly, the Duluth, Missabe and Iron Range Railway Company be ordered to compensate Sheet Metal Worker L. Frederick and Sheet Metal Worker Helper H. Anderson in the amount of 12 hours for the work performed on December 1, 1965.

EMPLOYEES' STATEMENT OF FACTS: At Proctor, Minnesota the Duluth, Missabe and Iron Range Railway Company, hereinafter referred to as the Carrier, maintains its main roundhouse. Among other crafts, Sheet Metal Workers are employed and work in the roundhouse. L. Frederick and H. Anderson, hereinafter referred to as Claimants, are employed as pipefitter and sheet metal worker helper and work in said roundhouse. On December 1, 1965, on the 3:00 P.M. to 11:00 P.M. shift, the following work was performed on the eleven diesels that were in the roundhouse: 14 sandpipes had to be cleaned, 4 sanders required the removal of the clean-out plug, 6 diesel units required the uncoupling of air lines. Work of this nature is performed daily by the sheet metal workers on the first shift in the roundhouse at Proctor, Minnesota.

Due to other than sheet metal workers performing the aforementioned work on December 1, 1965, the local chairman filed a claim in behalf of the Claimants.

On December 21, 1965, the Carrier's officer replied to the claim and denied it in its entirety, although in their letter of denial, the Carrier did admit that December 1st was not a normal day and several hours of sheet metal work was performed on that day. In support of this statement of fact, we quote a portion of Carrier's letter of denial, which follows:

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.

On December 1, 1965, a machinist and machinist helper performed the work of cleaning fourteen (14) sanders, removing clean-out plug of four (4) sanders and "M U'd" or uncoupled six (6) diesel units. The Organization contends that Rule 32(c) confers this particular work to employes of the Sheet Metal Craft. Rule 32(c) is:

"On shifts where there is not sufficient work to justify employing a mechanic of each craft, the mechanic or mechanics employed on such shifts will, so far as is capable, perform the work of any craft that may be necessary, which shall be confined to necessary running repairs, provided, however, that when a reasonable amount of work is involved and mechanics of the craft to whom the work belongs are not on duty but are available, they will be called to perform same." (Emphasis added)

In order to prevail in this dispute, the Organization must first prove that the involved work belongs to sheet metal workers exclusively. This board finds that the "Classification of Work Rule" involved in this dispute is general in nature, and that, therefore, the Organization has the burden of proving exclusivity by custom, practice and tradition. See Awards 5148 (Harwood) and 5309 (Weston). Also see Award 4206 (Harwood) which found that the coupling and uncoupling of locomotive units did not belong to sheet metal workers.

Although the Organization has introduced convincing evidence that at certain isolated points, sheet metal workers perform the work of cleaning and unplugging sanders, there was no proof to the effect that this work is performed by sheet metal workers on a system wide basis, as required by Awards 4971 (Johnson), 5151 (Harwood), 5361 (Knox) and 4219 (Daly).

For the reason that exclusivity of this type work to sheet metal workers has not been proven by custom, practice or tradition on a system wide basis, this claim will be denied. Referee acknowledges third party notice was given and contained in the record.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 6th day of June, 1969.

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