



Award No. 6063
Docket No. 5925
2-N&W-SM-'70

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee William H. McPherson when award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 16, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Sheet Metal Workers)

NORFOLK AND WESTERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That the Carrier violated the current Agreement particularly Rule No. 84, when they improperly assigned other than Sheet Metal Workers (B&B Carpenters) to the erecting and assembling of sheet metal clothes lockers for shop employees on July 8, 9, 10, 11 and 12, 1968.

2. That accordingly the carrier be ordered to:

A - Discontinue the use of employees other than employees of the Sheet Metal Workers' Craft in performing the work of erecting and assembling sheet metal Lockers.

B - Compensate Sheet Metal Workers' R. T. Sprouse, H. M. Chapman, P. W. Brown and O. W. Brown each in the amount of 148 hours at the time and one-half rate to be equally divided among them for this violation.

EMPLOYEES' STATEMENT OF FACTS: At Roanoke, Virginia, the Norfolk and Western Railway Company, hereinafter referred to as the carrier, maintains a Shop known as Roanoke Shops, for the repair of locomotive, cars, and other equipment. Sheet metal workers are employed by the carrier in its Roanoke Shops, to perform their work as specified in the current controlling agreement.

On July 8, 9, 10, 11 and 12, 1968, in the Carrier's Roanoke Shops, Roanoke, Virginia, sheet metal clothes lockers, all of which comes within the gauge of metal called for in Rule 84, to be used by the mechanical department forces in their locker room located in the erecting shop and machine shop area, were assembled and set up by Norfolk and Western B&B Carpenters, who were assigned to this work under the protest by the local committee.

(d) The claimants all held regular assignments and suffered no loss. See Special Board 570 Awards (No. 3 dissent) and 5, 6, 8, 36, 37, 44, 53, 61, 97, 104 and 105. See also many Second Division Awards.

4. The organization has not and cannot meet the burden of proving that historically, customarily and traditionally the work here involved has been performed exclusively by the sheet metal workers. See Second Division Award No. 5740.

5. There is no basis for a monetary claim in this dispute and payment of the overtime rate is not justified.

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 indicates that third party notice of the pendency of this dispute was given.

The Petitioner claims for the sheet metal workers work that was assigned to maintenance of way employes, consisting of the assembling and installation of prefabricated sheet metal lockers. The Carrier contends that sheet metal workers do not have exclusive right to such work, that the same and similar work has often been performed by maintenance of way employes, that this was but a small part of a major project performed by maintenance of way workers (even though another part of it was assigned to sheet metal workers), and that the Claimants were fully employed at the time and suffered no loss.

This Division in Award No. 5950 sustained a similar claim involving the same parties, the same issue in the same Roanoke Shops, and similar facts. This award will be consistent with the earlier award for the reasons that were there set forth. This Division has always refused to award pay at the punitive rate under similar circumstances.

AWARD

Claim 1 is sustained.

Claim 2A is denied.

Claim 2B is sustained to the extent of pay at the pro rata rate for the number of hours worked in the assembly and installation of the lockers.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 11th day of December, 1970.

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