

The Second Division consisted of the regular members and in addition Referee Harold M. Weston when award was rendered.

Parties to Dispute:

( International Association of Machinists and  
( Aerospace Workers, District No. 3, A.F. of L.  
(  
( Chicago and North Western Transportation Company

Dispute: Claim of Employes:

1. The Chicago and North Western Transportation Co. violated Rules 29, 53, 61, 62, of the July 1, 1921 Rules Agreement as amended when on Sunday, July 8, 1973 it assigned Foreman Joseph Papich, Chicago Shops, to complete inspection, repair and recheck of the air brake system on Diesel Unit No. 5022-B.
2. That accordingly, the C&NW Transportation Co. pay Mr. E. Kuhlmann, Machinist Inspector, eight (8) hours pay at rate and one-half the Machinist Inspector's rate on July 8, 1973.

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 claim is that Foreman Papich performed machinists' work on the air brake system of Diesel Unit No. 5022-B on July 8, 1973, a Sunday and assigned rest day for both Mr. Papich and Claimant.

The Diesel Unit had been placed in Carrier's Chicago Shops on July 5, 1973, due to the malfunctioning of its air brake system and beginning that day and continuing on through July 7, 1973, machinists worked a total of 15 3/4 hours inspecting the system and attempting to determine the defect. Of that total, 10 1/4 hours were devoted by Claimant to the work.

The cause of the malfunction had not been found by Sunday, July 8, 1973, when the machinist scheduled to work did not report for duty. Papich inspected the equipment that day and found the root of the trouble - a slight air leak - and, according to Carrier, a pipefitter then attended to the necessary repairs.

Under these specific circumstances, we are not satisfied that the Foreman trespassed on machinists' work rights. The record does not contain adequate evidence to establish that Mr. Papich performed any of the repair work or used tools, there being a conflict between the parties with respect to that issue.

While Rule 62 covers engine inspection and air conditioner work, it was not a violation of the Rule for the Foreman to inspect the equipment and to attempt to find the cause of the malfunction after machinists had been conducting their inspection for over 15 hours without locating the reason for the difficulty with the system. The foregoing is not intended, of course, to reflect on the machinists' inspection work performed on July 5, 6 and 7, for they had already explored and eliminated possibilities that contributed to the success in finally determining the cause of the malfunction.

The claim will be denied under the specific facts of this case.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest: Executive Secretary  
National Railroad Adjustment Board

By Rosemarie Brasch Lesi  
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 26th day of August, 1975.