

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONAward No. 7199
Docket No. 7019-T
2-SOU-SM-'76

The Second Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

Parties to Dispute: { Sheet Metal Workers' International Association
{
{ Southern Railway Company

Dispute: Claim of Employees:

1. On or about February 10, 1974, the Carrier removed the repairing of toilets from sheet metal workers, work which sheet metal workers had always performed by past practice and classification of work rule, now assigned to carmen to perform.
2. This is a continuous claim which the Carrier was furnished 196 hours. That the Carrier be ordered to compensate claimants at time and one half rate for above hours and any other time until settled.

Findings:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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.

Sheet Metal Workers claim jurisdiction on work of "repairing of toilets", specifically the new Microphor toilets recently installed in cabooses.

The third party respondent (Carmen) also claims jurisdiction for the work. The Carrier, having assigned the work in question to Carmen, argues that at most a jurisdictional dispute exists between the two crafts. Such dispute, states the Carrier, may be resolved only under the terms of the 1946 Disposition of Jurisdictional Disputes Memorandum of Understanding and not by this Board.

The Sheet Metal Workers take the position that assignment of the work on the new Microphor toilets has already been resolved through (a) a letter dated June 6, 1962, from the Carrier's Superintendent of Motive Power to the Sheet Metal Workers' General Chairman, and (b) a letter dated June 4, 1973, to the Carrier signed by the General Chairman of the Sheet Metal Workers and the Carmen.

The 1962 letter reads in part:

"This will confirm that in our discussion it was agreed that you would withdraw the claims in question and that I will handle to see carmen do not violate Rule 123. Specifically, the Master Mechanic is being instructed that when any repairs are made on caboose piping and associated equipment, a pipefitter will be utilized."

The Sheet Metal Workers claim that the words "associated equipment" must be read to encompass all work on the Microphor toilets, since they are connected to piping.

This Board finds that such meaning is excessive and that the plain meaning of "associated" cannot be definitively accepted as including any piece of equipment which happens to have piping connected to it. Certainly it cannot automatically include a new type of equipment first used more than a decade after the 1962 letter. (This does not mean that this Board finds the new equipment excluded from the meaning of "associated", either; the letter is simply not determinative of the issue one way or the other.)

The 1973 letter from the General Chairman does center on the new Microphor toilets. It reads as follows:

"Recently we had a dispute between the Carmen and Pipe-fitters over the piping of air to the new chemical toilets now being installed in cabooses at Chattanooga.

The undersigned met with the Local Chairmen of the Carmen and Sheet Metal Workers the last time we were in Chattanooga and settled the dispute with the understanding that the Carman would install the auxiliary reservoir and pipe the air from the A- B- block to the reservoir. The pipe-fitters would then pipe the air from the reservoir to the toilet.

We would appreciate this work being performed in accordance with the above understanding."

It is clear to this Board that the jurisdictional dispute resolution quoted above is limited to the "piping of air" and divides this work between the two crafts. It makes no clear disposition of work on the toilets themselves. It cannot be read to encompass more than it actually defines, that is, the "piping of air".

In assigning the work to the Carmen, the Carrier has not taken established work away from either craft. It is clear that a jurisdictional dispute, not previously resolved, does exist. In keeping with many previous Awards, this Board finds that resolution may be sought by the crafts only through the Memorandum of Understanding and not from this Board.

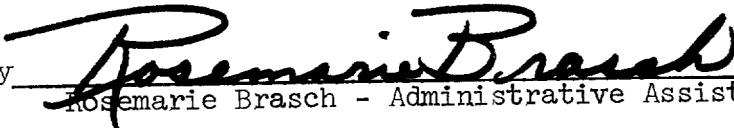
A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 14th day of December, 1976.