

The Second Division consisted of the regular members and in addition Referee Robert A. Franden when award was rendered.

Parties to Dispute: (International Association of Machinists and
(Aerospace Workers
(
(The Detroit and Toledo Shore Line Railroad Company

Dispute: Claim of Employees:

1. That Machinist W. Schmidt be compensated eight (8) hours pay at the prevailing Machinist rate of pay for Machinist work performed by other than Machinists.
2. The Carrier is in violation of Rule 34 of the controlling Agreement.

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.

This matter involved repairs performed on a motor car by Maintenance of Way employes. The Organization (Machinists) claim that this work was entirely and exclusively within its classification of work rules; that there were Machinists available to do the work; and that the Carrier erred wholly in the assignment of this work to other employes.

The Organization objected to the introduction of new material which they assert was not a part of discussion or correspondence on the property. Limiting (as we must) our consideration to matters which were properly raised while the dispute was under review on the property, we have held repeatedly that where the asserted coverage of the classification of work rule is general in nature, as seems to be the case here, the burden of proof is on the Organization claiming the work to establish by substantial probative evidence that the employes it represents have performed such work historically, traditionally and exclusively. The Organization has not sustained that burden of proof.

On the property, as well as in the proceedings before this Board, Carrier cited many reasons why this claim should be denied. Petitioner failed to respond to many of these assertions which therefore must now be considered factual. The Organization assumes the burden of proving an alledged violation; and in order to satisfy that burden it must present to the Board a factual showing which demonstrates that a Carrier has taken action which is proscribed by the Rules agreement. Without belaboring the point, we are unable to find such a showing in the record.

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
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 5th day of July, 1977.