

The Second Division consisted of the regular members and in addition Referee Dana E. Eischen when award was rendered.

Parties to Dispute:     { Sheet Metal Workers' International  
                                  { Association  
                                  {  
                                  { Seaboard Coast Line Railroad Company

Dispute: Claim of Employees:

1. On or about May 27, 1976, Carmen at Savannah, Georgia, were misassigned to install sander valves and repair air pipe on Seaboard Coast Line's sand car SCL 766860. Work which Sheet Metal Workers had formerly performed and rightfully belonged to Sheet Metal Workers by contract.
2. That the Carrier be ordered to compensate Sheet Metal Worker Floyd Gadson eight (8) hours at time and one-half rate of pay.

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.

In May 1976 Carrier assigned to Carmen the work of replacing sander valves and air pipe on a damaged sand car at Savannah, Georgia. On June 25, 1976 the Sheet Metal Workers filed the instant claim alleging that the work belonged exclusively to its craft. As the record developed on the property, the Sheet Metal Workers contended that the assignment of work to a carman violated the express language of the Sheet Metal Workers' Rule 85 and also past practice. Carrier resists the claim on grounds that neither the express wording of Rule 85 nor proven past practice give Sheet Metal Workers an exclusive right to perform the disputed work.

Third Party Notice was provided to the Carmen's Organization which maintains as a threshold question that the dispute is jurisdictionally unsound and barred from consideration on the merits because of the Sheet Metal Workers' failure to comply with the December 20, 1967 Jurisdictional Disputes Agreement before bringing it to this Board. Arguendo on the merits the Carmen contend that express language and past practice both establish their entitlement to the work.

Careful review of the record establishes that the SMWIA did comply with the jurisdictional dispute wording of the December 27, 1977 Letter of Understanding. This is evidenced by the exchange of correspondence on June 10 and 15, 1977, between the respective General Chairmen of the SMWIA and the BRC. Accordingly the threshold objection of the Carmen must be dismissed. Turning to the merits, however, it is apparent that the SMWIA has failed to carry its burden of proving exclusive entitlement to the work either by express language or clearly established practice. Rule 85, the SMWIA Classification of Work Rule does not clearly and unambiguously reserve the installation of sander valves and air pipes on sander cars to Sheet Metal Workers. And the available record evidence regarding practice falls far short of establishing exclusive entitlement to that work. The claim must be denied.

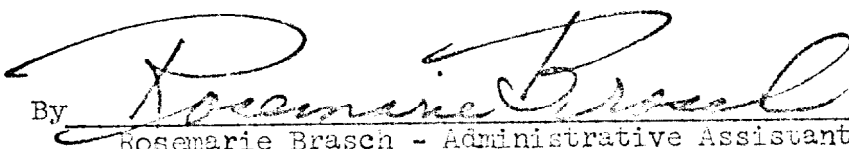
A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest: Executive Secretary  
National Railroad Adjustment Board

By

  
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 27th day of September, 1979.