

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

Parties to Dispute: { System Federation No. 7, Railway Employees'  
                          { Department, A. F. of L. - C. I. O.  
                          { (Boilermakers)  
                          { Burlington Northern Inc.

Dispute: Claim of Employees:

1. That, Burlington Northern Inc., violated Rules 57, 93 and 98(c) of the current agreement when it improperly assigned other than classified Boilermakers, namely Machinists, to the work of drilling and tapping metal locomotive pilots at its' Livingston Diesel Shop, Livingston, Montana.
2. That accordingly, the Carrier be ordered to additionally compensate Boilermaker R. J. Collins, thirteen (13) hours pay for the above work which was performed on August 5th, 11th and 17th, 1977 and for each date thereafter until the violation is corrected.

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.

On or about August 5, 1977, Carrier instituted a pin lifter modification program to comply with newly propounded safety standards mandated by the Federal Railroad Administration. The modification program entailed work associated with making the following three (3) basic changes:

- (1) Lowering of steps behind pilots of locomotives in order to make them more easily accessible;
- (2) Removal of riding platforms on front of pilots; and
- (3) Application of pin lifters designed to provide operation from the lowered steps behind pilot.

The instant dispute concerns the jurisdiction of work involved in the above cited point (3), that associated with the application of pin lifters. Basically, this work entailed the following specific tasks: removing parts of the old equipment;

drilling and tapping of holes; bolting on brackets and pin lifter rods; welding the link and washers; and heating and bending the pin lifter rods.

At its Diesel Shop facility located in Livingston, Montana, the Carrier assigned employees of the Machinists' craft to perform all duties in connection with the pin lifter modification program.

The Organization alleges that in assigning employees of the Machinist craft the work of drilling and tapping locomotive pilots, the Carrier violated Rules 57, 93 and 98(c) of the Controlling Agreement, effective April 1, 1970. These Rules read in pertinent part as follows:

Rule 57. Classification of Work - Boilermakers

"Boilermakers' work shall consist of ... building and repairing metal pilots, the removing and applying of metal pilots to metal pilot beams, ... all drilling, cutting and tapping, and operating rolls in connection with boilermakers' work; ... and all other work generally recognized as boilermakers' work."

Rule 93. Jurisdiction

"Any controversies as to craft jurisdiction arising between two or more of the organizations parties to this agreement shall first be settled by the contesting organizations, and existing practices shall be continued without penalty until and when the Carrier has been properly notified and has had reasonable opportunity to reach an understanding with the organizations involved.

When new methods or new processes are introduced in the performance of work covered by this agreement and not specifically covered in the special rules of a craft, conference will be held between the General Officers and the General Committee with a view to determine the proper assignment of such work. In the event agreement is not reached management will be permitted to assign employees to perform the work, it being understood that such assignment would in no way establish a precedent or jeopardize the claims of any craft, it being further understood that should agreement later be reached changing the assignment of such work it will not result in any claims against the Carrier."

Rule 98. Effective Date and Changes

(c) "It is the intent of this Agreement to preserve pre-existing rights accruing to employees covered by the Agreements as they existed under similar rules in effect on the CB&Q, NP, GN, and SP&S Railroads prior to the date of merger, and shall not operate to extend jurisdiction or Scope Rule coverage to agreements between another organization and one or more of the merging Carriers which were in effect prior to the date of merger."

"back frame and numerous bars fastened to the triangular frame and extending up and backward to the bumper beam. Made of wood, iron or pressed steel and used to remove obstructions from the track. Usually applied to the front end of locomotives in road service and sometimes to the back end of tenders. Not generally used on switch engines. Formally called cow catcher."

Based on the above definition, the Machinists reject the Boilermakers' definition of a pilot refuting the notion that a pilot is a piece of sheet iron or sheet steel. Furthermore, the Machinists assert, many diesel locomotives today do not have an appendage which even remotely resembles a pilot. Thus, the Machinists contend, the disputed work in question, that of drilling and tapping of holes was not performed on pilots as the Boilermakers have so asserted but rather such work was done on metal plates. Based on this assertion, the Machinists maintain that their Classification of Work Rule 51, reserves the work in question to their craft, citing that part of the rule as follows: "Machinists' work shall include the laying out and drilling of holes in metals in connection with Machinists' work." The Machinists further point out that pin lifters are mechanical hoists which are used to operate the unlocking devices which are an intricate part of the locomotive coupler mechanism. Hoists, the Machinists argue, are devices which lie within the province of Machinists' work as so set forth in still another part of Rule 51, which reads as follows: "Machinists' work shall consist of building, assembling, maintaining, dismantling, and installing ... hoists ..." Furthermore, the Machinist Organization submits that members of the Machinist craft employed at the Carrier's Livingston, Montana Diesel Shop have historically and exclusively removed, applied and repaired coupler pin lifter assemblies, including all work related thereto and therefore Carrier rightfully assigned its members the work of removing the old style and applying the new style of coupler pin lifter assemblies when the modification program was first initiated.

The Machinist Organization refutes the notion set forth by the Boilermakers' Organization that members of the Boilermaker craft retain exclusive rights to the drilling of all holes in a piece of equipment whether that equipment be a pilot or other equipment manufactured by a Boilermaker. In support of its position, the Machinist Organization makes a comparative reference to work experience and skills necessary to qualify as a Boilermaker with that required to qualify as a Machinist. With regard to a Boilermaker, Rule 56 reads as follows:

"Any man who has served an apprenticeship, or has had four (4) years' experience at the trade, who can with the aid of tools, with or without drawings, and is competent to either lay out, build or repair boilers, tanks and details thereof, and complete same in a mechanical manner shall constitute a boilermaker."

And with regard to a Machinist, Rule 50 reads as follows:

"Any man who has served an apprenticeship or has had four (4) years' experience at the machinists' trade and who, by his skill and experience, is qualified and capable of laying out and fitting together the metal parts of any machine or locomotive, with or without drawings, and competent to do either sizing, shaping, turning, boring, planing, grinding,



"finishing or adjusting the metal parts of any machine or locomotive, shall constitute a machinist."

Based on the above cited rules, it is the position of the Machinist Organization that a Boilermakers' work experience and required skills are both limited and restricted to the building and repairing of boilers and tanks, while a Machinist is required to attain the ability to lay out and fit together the metal parts of any machine or locomotive. On this basis alone, the Machinist Organization insists that the disputed work in the instant case was unequivocally within their craft's jurisdiction.

We find the record before us perplexing, riddled as it is throughout, with contradictions, relative to every allegation advanced by each of the interested parties. However, from the quagmire of assertions, allegations, claims and counter-claims, we have managed to sift out and identify the central question to be: Did the Carrier violate Rule 57, the Boilermakers' Classification of Work, when it assigned members of the Machinist craft work pertaining to the accomplishment of the pin lifter modification program on dates of August 5th, 11th, and 17th, 1977 and thereafter? This central question demands that we look to the literal meaning of the pertinent words of Rule 57 cited above. Obviously, a key word in the rule is pilot, the very definition of which has been challenged by the Machinist Organization. We believe this challenge raises a very valid question regarding whether or not a pilot was actually the piece of equipment to which the new style pin lifter was bolted to. Was it simply a metal plate as the Machinists contend or was it, in fact, a pilot as the Boilermakers contend? We confess, given the fact that the definition of pilot offered by the Machinists was taken from a source published fifty-five (55) years ago and the fact that substantial number of technological advancements have occurred within this period of time, that we are unable to arrive at a definitive answer to this question. However, we will for the purpose of this discussion and this discussion only, assume the part in question is in fact a pilot as so defined by the Boilermakers.

Other key words in Rule 57 are; building, repairing, removing, and applying, none of which in the literal sense pertain to the concept of modifying, which was a part of the work associated with the changing of pin lifters under the modification program. To be specific, we agree that it was the pilot which was modified here and not the pin lifters. Again, for the purpose of this discussion and this discussion only, we will assume that the concept of modification is embodied by Rule 57.

Another group of key words in Rule 57 are drilling, cutting and tapping, and operating rolls.... We know for certain that drilling and tapping were in fact the work performed on the pilots in order to install the new style pin lifters. What we do not know and at this point in time will never know, is whether such work constituted a preponderant part of the total work involved. We note that Carrier frustrated the attempt to resolve this question when it denied the Organization's request to time study the whole of the pin lifter work. We believe that lack of an answer to this question serves to weaken the Organization's position.

The last key words and those we believe to be crucial in the instant case are; "and all other work generally recognized as boilermakers' work". We believe, based on an evaluation of the entire record, that the significance of the pin lifter modification program was to replace outmoded pin lifters with new style pin lifters which met the more recent standards established by the Federal Railroad Administration. As such, the focus of the modification program was on changing one type of pin lifter for that of another. We note that in the record, the Organization readily acknowledged that members of the Machinist craft at Carrier's Diesel Shop facility in Livingston, Montana have performed the work of replacing pin lifters. Therefore, we conclude, that the changing of pin lifters, the major focus and objective of the modification program is Machinists' work and not Boilermakers' work.

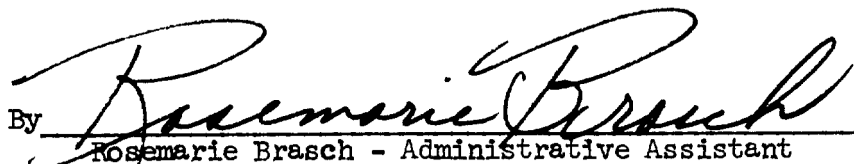
Thus, due to insufficient proof regarding the assertion by the Boilermakers that the drilling and tapping tasks associated with the pin lifter work was in fact of a preponderant nature and the evidence in the record supporting the claim that the work of changing pin lifters belongs to members of the Machinists' craft assigned to Carrier's facility at Livingston, Montana, we find we must in this case dismiss the claim.

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 26th day of March, 1980.