

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

Parties to Dispute: ( Sheet Metal Workers' International  
Association  
(  
( Missouri Pacific Railroad Company

Dispute: Claim of Employees:

1. That the Missouri Pacific Railroad Company violated the controlling Agreement, particularly Rule 65, when on October 10, 1977, other than Sheet Metal Workers were assigned the duties of repairing hasp on metal tool box, Diesel Shops, Fort Worth, Texas.
2. That accordingly, the Missouri Pacific Railroad Company be ordered to compensate Sheet Metal Worker E. W. Sparks four (4) hours at the pro rata rate of pay for such violation.

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 employees 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 is a work jurisdiction dispute case. On October 10, 1977, Electrician Hardie made an extensive and permanent repair to the metal lock hasp on the tool box in his possession. The Sheet Metal Workers claim that this was work which should have properly been assigned to their craft under Classification of Work Rule No. 65 in the controlling Agreement between the parties.

The record yields the following with respect to key questions to be answered in this case:

1). To whom does this work properly belong? There is no reference in any applicable rule to this chore belonging, as such, to any particular craft. However, it appears to be true, as the petitioning Organization here asserts, that the gauge of metal employed in fashioning the hasp which was subsequently welded to the tool box of the electrician does come under the Sheet Metal Workers' jurisdiction. There are some unsupported assertions, but no hard evidence in the record, regarding past practice in the performance of this task. Carrier asserts that the performance of this kind of a repair chore on an electrician's tool box is exceedingly rare, and that the instance with which we are dealing may be very nearly a case of first impression; the Organization claims that such work is traditionally performed by the Sheet Metal craft.

2). How extensive a task was the hasp repair? There is no definitive evidence in the record on this issue. There is good reason to believe, however, that the task consumed more than "a few minutes" (long enough, certainly, for one or more sheet metal workers to observe the work and become concerned) but some length of time well under one half a shift (4 hours). The work performed consisted of measuring, cutting, shaping, and welding of the hasp to Hardie's tool box. The work was done in the Sheet Metal Shop.

3). Was the work done under management direction and control? The record indicates that while Electrician Hardie was instructed to make a temporary repair to his tool box by inserting an angled piece of metal through appropriate slots so that the box could be locked, Hardie made a clearly unilateral decision, without management direction, to cut, shape, and weld the hasp so as to effect a permanent repair. The Organization claims that, while Hardie may not have been instructed by supervision to perform the extensive repair finally undertaken, the work was done with the knowledge and concurrence of supervision.

4). Whose property is the tool box in question? While there is some vagueness on the record with respect to this issue, the tool box is apparently assigned to the individual electrician at the time of employment and may be taken by him when he leaves the Carrier. In some sense, at least, then, it may be accurate to characterize the box as the personal property of a given electrician employee; certainly, though, in our judgment, this case will not turn on resolution of this issue.

We find, in sum, the following:

1). the petitioning organization has not been able to demonstrate with any certainty whatsoever that the work in question is by custom, practice, or contract, unequivocally reserved to the workers in its craft;

2). management did not assign or direct Electrician Hardie to perform the work in question (although they may have had knowledge that the work was being done) on what may, possibly, be considered Hardie's personal property;

3). despite the fact that the task performed here was surely more than de minimis, as a result of the relative infrequency and non-recurring nature of this work, there will, in all probability, be no significant erosion whatsoever of the work province or traditional tasks of Sheet Metal Workers if this claim is denied.

It is the opinion of this Board based on the foregoing, that this claim should be denied.

A W A R D

Claim denied.

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Award No. 8383  
Docket No. 8041-T  
2-MP-SM-'80

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 25th day of June, 1980.