

The Second Division consisted of the regular members and in addition Referee John B. LaRocco when award was rendered.

Parties to Dispute: (International Association of Machinists and
(Aerospace Workers
(
(Southern Railway Company

Dispute: Claim of Employees:

1. That under the Agreement, the Southern Railway Company, hereinafter referred to as the Carrier, erroneously assigned three (3) Carmen on April 25, 1978 to install and align two (2) roller conveyors in the Reclamation Shop, at Coster Shop, Knoxville, TN, which is a violation of Rule #66 (Machinist Classification of Work Rules) of the March 1, 1975 Agreement.
2. That accordingly, Carrier be ordered to compensate Machinists Glen Monroe and George Wilson, hereinafter referred to as the Claimants, in the amount of eight (8) hours each at the pro rata rate of pay account Carrier depriving the Claimants their contractual right to perform the disputed work covered by the Machinists Classification of Work Rules.

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.

This claim has been brought by two machinists for eight hours pay at the pro rata rate for the alleged deprivation of work when the carrier assigned carmen to install, extend and align a manual roller conveyor at the Carrier's Coster Shop in Knoxville, Tenn. on or about April 25, 1978. The organization contends that the work was reserved to the machinists under Rule 66 (Classification) and the Carmen had specifically disclaimed work relating to conveyors in an October 2, 1965 letter agreement. The carrier relies on two arguments. First, the controversy over the conveyor work is actually a jurisdictional dispute and since the competing organizations failed to follow the procedure for resolving jurisdictional disputes set forth in the 1946 Memorandum of Understanding, the claim should be dismissed. Second, regardless of the 1965 Letter Agreement, a past practice had developed whereby the carmen perform work on manual conveyors (like the one involved in this dispute) while the machinists exclusive jurisdiction is confined to power driven conveyors. The Carmen contend the work was properly assigned to them and

assert that the Machinists have not sustained their burden of proving the disputed work was within the machinists classification rule.

The dispute over the installation and extension of the conveyor at Knoxville in April, 1978, did not constitute a jurisdictional dispute. Second Division Award No. 7200 (Marx). Even if there had been a jurisdictional dispute, it was resolved by the 1965 Letter Agreement between the Machinists and Carmen. Since there was not a jurisdictional dispute, the 1946 Memorandum of Understanding is inapplicable.

The assignment of the work in this case was clearly governed by the 1965 Letter Agreement. According to that agreement, the carmen expressly disavowed the right to install conveyors and stated such work belonged to the machinists. The agreement makes no distinction between manual and power driven conveyors. Neither the carrier nor the carmen have proven, by past practice, or otherwise, that the 1965 Letter Agreement was intended to cover only power conveyors. Therefore, the carrier violated Rule 66 when it improperly assigned the work to the carmen.

Each of the two claimants is entitled to receive eight hours of straight time pay at the pro rata rate of pay in effect at the time the work was performed.

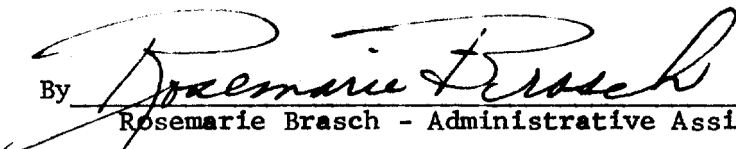
A W A R D

Claim sustained to the extent consistent with our findings.

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 28th day of October, 1981.