

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

Parties to Dispute: (Sheet Metal Workers' International Association
(Chicago and North Western Transportation Company

Dispute: Claim of Employees:

1. That the Carrier under the current agreement, assigned other than employees of the Sheet Metal Workers' Craft (by the assignment of Carmen Helpers and Coach Cleaners) to perform work covered by Rules 29, 53 and 103. This work assignment consisted of the removing and replacing of drain pans, overhead doors and the blowing of condensers on certain coaches as enumerated in Employees' Exhibits 1 through 5 on the dates of April 11, 12, 13, 14 and 17, 1978.
2. That accordingly, the Carrier be ordered to additionally compensate Sheet Metal Workers, A. Droho, S. Osborne and M. Chalus for eight (8) hours each at the straight time rate for the date of April 11, 1978. For the date of April 12, 1978, Sheet Metal Workers, J. Nurnburg, T. Land, W. Rasso and S. Scolastica in the amount of eight hours each at the straight time rate. For the date of April 13, 1978, Sheet Metal Workers, R. Bauman, A. Mahilum, N. Christopherson and A. Droho in the amount of eight hours each at the straight time rate. For the date of April 14, 1978, Sheet Metal Workers, J. Land, W. Rasso, S. Scolastica, M. Chalus and S. Osborne in the amount of eight hours each at the straight time rate. For the date of April 17, 1978, Sheet Metal Workers, J. Nurnburg, R. Bauman, A. Mahilum and N. Shristopherson in the amount of eight hours each at the straight time rate.

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.

The organization has brought this claim on behalf of nine sheet metal workers alleging the carrier improperly assigned work (which the organization says is reserved exclusively to sheet metal workers) to other crafts on April 11, 12, 13, 14 and 17, 1978. The claimants seek a total of approximately 152 hours of pay at the pro rata rate.

Each spring, the carrier prepares the air conditioning equipment on its commuter passenger coaches for summer use. The air conditioning preparation project consists of many different tasks (repair, cleaning & maintenance) including the blowing of condensers. The carrier has engaged in the air conditioning preparation project each spring since the late 1950's when the air conditioned coaches were placed into service on the carrier's suburban Chicago lines. On the dates in question, some sheet metal workers participated in the air conditioning renewal process but they were assisted by coach cleaners and carmen.

The organization contends all the work involved in preparing the air conditioning equipment for summer use (including blowing the condensers) is within the exclusive province of sheet metal workers under Rules 103, 29 and 53. Rule 103 classifies the type of tasks which constitute sheet metal work. The other rules provide that sheet metal workers shall perform sheet metal work with certain exceptions. The carrier refutes the organization's contention that all the disputed work is covered by the sheet metal worker classification rule. While the carrier acknowledges that a portion of the air conditioning preparation project is reserved exclusively to sheet metal workers, it contends that the claimants did perform that portion of the work. According to the carrier, coach cleaners and carmen have, since the late 1950's, assisted sheet metal workers in the spring air conditioning project. Moreover, the carrier alleges that a former general chairman of the sheet metal workers in 1977 orally agreed that carmen and coach cleaners could continue to perform the disputed work in accord with the past practice. In its third party submission, the carmen assert that its classification rule permits carmen to perform air conditioning maintenance work on passenger cars. Even if the carmen classification rule is not broadly construed to cover such work, the carmen contend that historically, on this property, the carmen have performed the work claimed to be exclusively reserved to the sheet metal workers.

We initially note that the carrier also argues that the incidental work rule applies to this claim. However, we cannot pass on the applicability of the incidental work rule because the carrier raised this argument for the first time before this Board. Numerous past decisions of this Board confine our consideration to arguments which were properly raised while the case was being handled on the property.

After carefully considering the arguments of all the interested parties and the facts in the record, we rule that the disputed air conditioning work has historically and traditionally been performed by a combination of crafts on this property. A practice has developed which permits the carrier to assign part of the work to carmen and coach cleaners to assist the sheet metal workers in preparing the air conditioning for summer use. The organization has not presented a preponderance of evidence to demonstrate that the project is within the exclusive jurisdiction of sheet metal workers. Over a period of years, the practice arose which gives several crafts overlapping jurisdiction to perform portions of air conditioning preparation work. Thus, we must deny the claim.

We emphasize that our decision applies only to the practice which has developed on this property. Also, sheet metal workers continue to have a right to perform the portion of the air conditioning preparation work that they have traditionally performed each spring.

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Award No. 8823
Docket No. 8424-T
2-C&NW-SM-'81

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 18th day of November, 1981.