

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

Parties to Dispute: { International Brotherhood of Firemen & Oilers
{ Denver and Rio Grande Western Railroad Company

Dispute: Claim of Employees:

1. Under the current controlling Agreement, the Denver and Rio Grande Western Railroad Company improperly assigned employees, other than those represented by the Firemen and Oilers, to oil and service the shop's air compressor at Grand Junction, Colorado.
2. That, accordingly, the Denver and Rio Grande Western Railroad Company be ordered to compensate Laborer J. Bowling a four hour call for July 2, 1977 and a four hour call for July 3, 1977, Laborer Sam Tillman a four hour call for July 5, 1977 and a four hour call for July 8, 1977, Laborer J. Pitts a four hour call for July 6, 1977 and Laborer L. Palmer a four hour call for July 7, 1977; each hour claimed to be paid at the overtime 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 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 waived right of appearance at hearing thereon.

The Organization brings this claim on behalf of three Laborers stationed at the Carrier's shop in Grand Junction, Colorado. On six dates in July, 1977, the Carrier assigned Machinists the daily task of oiling and cleaning the air compressor. The Claimants assert they were available and should have been called to perform the work.

The Organization contends the work is within the exclusive province of Laborers by both the Scope Rule and historical practice. The Organization asserts that Laborers have performed the disputed work for more than forty years at Grand Junction. For each violation, the Organization asks us to award the appropriate Claimant four hours of pay at the overtime rate because the disputed work allegedly takes from one to eight hours to complete.

The Carrier specifically denies each of the Organization's contentions and raises three defenses. First, the Carrier claims the disputed work is not exclusively reserved to any single craft by either rule or historical practice. However, the Carrier points out that the duties associated with the work is closer to Machinists' work, as defined by Rules 46 and 47, than Laborer's work. Second, the Carrier argues the Claimants are not the proper Claimants since they are not qualified Steam Stationary Engineers as set forth in the Scope Rule. Lastly, according to the Carrier, the disputed task is relatively simple and requires no more than fifteen minutes to complete. The Carrier adds there is no rule to support the Claimants' demand for four hours of pay at the premium rate.

The Machinists take the position that the disputed work is not reserved exclusively to Laborers. Furthermore, the Machinists lay some claim to the work by stating that work involving air equipment is expressly covered by the Machinists' classification of work rule (Rule 46).

The Scope Rule in the applicable agreement is general in nature and merely lists the positions covered by the agreement. Absent a classification of work rule, the Organization has the burden of proving the disputed work has been exclusively, historically and customarily performed by Laborers on a system-wide basis. Second Division Award No. 5169 (Weston).

All three parties have submitted evidence regarding the past practice on this property. After carefully weighing the evidence, we conclude that the record contains insufficient evidence to support the Organization's claim. While Laborers have usually performed the work in the past, at several points along the Carrier's system as well as at Grand Junction, Machinists or Machinist Helpers have also oiled and cleaned air compressors. Therefore, on this property the disputed work is not exclusively reserved to Laborers.

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 17th day of March, 1982.