

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

(Sheet Metal Worker's Intl. Association
Parties to Dispute: (
(Norfolk and Western Railway Company

Dispute: Claim of Employees:

1. That under the current agreement, other than employees of the Sheet Metal Workers' Craft (Carmen) were improperly assigned to perform pipe work consisting of cutting, fitting and installing guard rail handrail constructed from one and one half (1-1/2) inch pipe and three quarter (3/4) inch pipe in the Paint Shop, Portsmouth Shop, Portsmouth, Ohio on January 29, 1981 through March 27, 1981.

2. That accordingly, the Carrier be ordered to additionally compensate Sheet Metal Workers, J. W. Irwin, P.J. Weber, D. S. Austin and E. N. Jacobs in the amount of six hundred and seventy two (672) hours at the pro rata rate, to be equally divided among them for this work.

FINDINGS:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employees or employees involved in this dispute are respectively carrier and employees 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.

Portsmouth, Ohio, the point referred to in the claim, is a main terminal on the Scioto Division of the Eastern Region of the N&W. At that point the carrier operates repair tracks and transportation yards where sheet metal workers are employed.

According to the Organization the Carrier erred in the assignment of the work described in the claim in that using carmen to perform such work is contrary to the provisions of Rule No. 84 of the controlling labor agreement. The rule provides:

"Classification of Work Rule No. 84 reads:

Sheet metal workers' work shall consist of tinning, coppersmithing and pipefitting in shops, yards, buildings, on passenger coaches and engines of all kinds; the building, erecting, assembling, installing, dismantling (for repairs only), and maintaining parts made of sheet copper, brass, tin, zinc, white metal, lead, black, planished, pickled, and galvanized iron of 10 gauge and lighter (present practice between sheet metal workers and boilermakers to

"continue relative to gauge of iron), including brazing, soldering, tinning, leading and babbiting (except car and tender truck journal bearings) the bending, fitting, cutting, threading (when men are regularly assigned to operate pipecutting and threading machines), brazing, connecting and disconnecting of air, water, gas, oil and steam pipes, the operation of babbitt fires (in connection with sheet metal workers' work), oxyacetylene, thermit and electric welding, and all other work generally recognized as sheet metal workers' work." (Emphasis added).

The Organization also cited Rule 31 which provides:

"None but mechanics, apprentices and hourly rated gang leaders shall do mechanics' work as per special rules of each craft."

In further support of the claim the Organization argues that the rules are clear in providing that sheet metal workers have a right to the work in question, and further, that there are no provisions for overlapping jurisdiction of work between carmen and sheet metal workers. It is also asserted by the Organization that at Roanoke Shops all pipe work except air brake equipment relative to freight car building and repair has been performed by sheet metal workers.

In contesting the claim, Carrier points out that other crafts and other departments (including those at Portsmouth) have, on many occasions in the past, performed similar work to that involved in the instant claim. The work of cutting, fitting, welding and attaching pipe installed as safety rails at Portsmouth and elsewhere on the N&W System has been performed in the past by various crafts and has never been performed exclusively by any one craft. The work of fabrication and installation of hand rails and guard rails does not belong exclusively to any craft by rule, custom or practice. Such work can and is performed by various crafts.

Inasmuch as the claim contests the right of carmen to perform the work in question the Board informed the Carmen's Organization of the claim. The response by the Carmen denies the allegations of the Sheet Metal Workers and refers to prior awards dealing with jurisdictional claims similar to those presented in the instant dispute. In Award No. 7147, the Sheet Metal Workers' International Association contended that carmen performed similar work in Roanoke contrary to Rule 84. The alleged violation in that case was described as follows:

"(Carmen) were improperly assigned to perform pipe work consisting of cutting, fitting, installing guard rail hand rail constructed from one and one half (1-1/2) inch pipe and three quarter (3/4) inch pipe in the Scrub Room, Roanoke Shops, Roanoke, Virginia on May 7, 1974.

Evidence shows instances in the past where other crafts performed identical work and also that the language of the rule does not support the contention that sheet metal workers have exclusive rights to the work. The claim of the Organization as to handrail work has been the subject of a number of Awards in the past and all were denials. In Award No. 7147, Referee Zumas denied the claim where carmen had done the work of cutting, fitting and installing pipe for handrails in the Scrub Room at Roanoke Shops. In an earlier Award No. 5951 also decided by Referee Zumas, a sheet metal worker's claim was denied where removal and installing of new sewer lines had been done by B&B Carpenters at Roanoke Shops. In this case the referee stated:

"Rule 84, relied on by the Organization, is vague and unclear. There is no classification under the rule which covers the work complained of.

The record does disclose, however, that in the past this kind of work had been performed by Maintenance of Way employees. There is no need to cite authority for the long standing tenet of this Board that absent a clear and unambiguous rule, past practice governs."

There was still a third claim on this same carrier filed by the Sheet Metal Workers involving similar circumstances i.e., Award No. 6049. That was another case in which the Organization alleged violation of Rule 84 because B&B Carpenters were used to perform pipe work in the installation of handrails converting diesel maintenance facilities at Roanoke to an assembly line operation. That claim was denied with the comment that the Organization failed to show their right to the work by the past practice. Also cited was the prior award of Referee Zumas noting that Rule No. 84 is vague and unclear.

Insofar as Portsmouth is concerned the evidence cites some five instances wherein carmen were used to assemble and install handrails and scaffolding.

Our review of the evidence shows the record to be replete with evidence showing the Sheet Metal Workers Organization does not have exclusive claim to the work in question. It must also be noted that the pipe work referred to in Rule 84 specifies "air, water, gas, oil and steam pipes" under particular conditions. None of the conditions referred to in the rule involves pipe work in the assembly and installation of handrails.

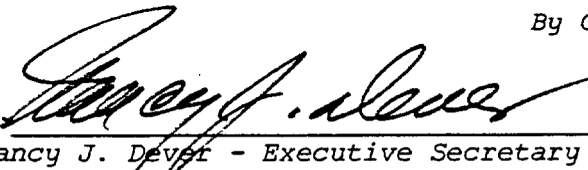
In conclusion it must be observed that the principle here involved has been settled previously in numerous awards. Nothing new has been added in support of the claim that sheet metal workers have exclusive claim to the work. The evidence does not support the claim in this case just as in the prior cases.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 18th day of July 1984.