

The Second Division consisted of the regular members and in addition Referee David P. Twomey 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 97, when machinists were assigned the duties of disconnecting 3/8" hydraulic hose from pump to cylinder on 50-ton press, Pike Avenue Truck Rebuilding Shop, North Little Rock, Arkansas, on July 10, 1980.
2. That accordingly, the Missouri Pacific Railroad Company be ordered to compensate Sheet Metal Worker J. W. Brooks in the amount of one hour (1') at pro rata rate for violation occurring on July 10, 1980.

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 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.

The Local Chairman, P. J. Davidson, filed a claim with Shop Superintendent, J. W. Dent on September 8, 1980 as follows:

"Dear Mr. Dent,  
I wish to claim one hour time on behalf of Sheet Metal Worker J. W. Brooks account on July 10, 1980 at Pike Ave. Truck Rebuilding Shop, Machinists Lock and Clawson connected 3/8" hydraulic hose from pump to cylinder on new 50 ton Hydraulic Press...."

The claim was denied by Mr. Dent and appealed to the Mechanical Superintendent, Mr. E. A. Jones, by the General Chairman, R. G. Moorhead. Mr. Jones investigated the claim and sent a letter dated January 13, 1981 to Mr. Moorhead declining the claim as follows:

"... Upon investigating this claim, I find that the sheet metal workers installed the air line and performed all pipe work for the hydraulic press. Machinists were then assigned to installed equipment. The 3/8" hydraulic hose that the machinist connected is equipped with quick disconnect couplings. This type of coupling does not require the use of any type of tools as they are connected and disconnected by a twist of the wrist and hand...."

Mr. Moorhead responded by letter dated January 26, 1981 pointing out that a mistake must have been made since "these hoses have permanent fixtures." Mr. D. M. Tutko, the Chief Mechanical Officer, responded by letter dated February 4, 1981, asserting in part that the case in question had "quick-disconnect couplings," which work would take a minute or less to perform. Mr. Moorhead responded, in part, by letter dated February 23, 1981 that the hose in question was not equipped with quick connectors, it was a permanent installation. Mr. Sayers responded by letter dated April 6, 1981. By letter dated October 1, 1981 Mr. O. B. Sayers wrote to Mr. Davidson who had taken over as General Chairman, confirming a conference held on September 28, 1981 to discuss this claim; and he stated in part:

"... The Organization was informed that what was involved here was no more than the application of a hydraulic hose by means of a quick release coupling. You stated that it was your impression that the coupling had to be applied to the hose or that some more extensive work was necessary. You stated that if all that was involved was the application of the hose using the quick release coupling, then claim would be withdrawn.

Carrier pointed out that this unit was not made by the Carrier but was bought whole. The only work performed other than simple installation was application of a short piece of pipe to a pressure gauge. This work was performed by sheet metal workers...."

Mr. Sayers also sent a manufacturer's specifications sheet on quick-connect couplers, called "High Flow Spee-D-Couplers." Mr. Davidson responded by letter dated February 4, 1982 stating that he did state that he would withdraw the claim if the only work involved was the connecting of hose by quick connect couplings, however, he determined much more was involved based on Local Chairman Newberry's letter of October 9, 1981. Mr. Newberry's letter stated in pertinent part:

"Dear Mr. Davidson

In reference for your request for further information concerning claim of Machinist performing pipe work on hydraulic press.

Sheet Metal Worker M. E. Smith informed me that Machinist Clawson and Lock mounted the pump and cylinder to the press frame. They then applied the quick-disconnect fitting to the cylinder, applied the hydraulic hose to the pump and then tightened above mentioned fittings and hose. The hydraulic pump when purchased came supplied with the fittings and hose but was in no way attached to the pump itself....

Upon reading the Companys denial they have not considered the piping of the pump or the cylinder which is our main contention, not the quick disconnect couplings which they think we are claiming.

S/Donny Newberry"

Mr. Sayers responded by letter dated February 9, 1982, agreeing that what was involved was the application of a hydraulic hose by means of a quick release coupling and denying that there is any evidence that any piping work was performed on a pump or cylinder of the hydraulic press.

This case is an important case to the Sheet Metal Workers' craft and the other parties because it involves the assignment of work. The case was vigorously and articulately presented to the Board by a member of the Board skilled in the Sheet Metal Worker craft. The great advocacy skills of a Board Member simply cannot turn around a case that was not properly developed on the property. The claim was filed on September 8, 1980 because Machinists "connected 3/8" hydraulic hose from pump to cylinder on a 50-ton hydraulic press." Mechanical Superintendent Jones investigated the claim and he determined that Sheet Metal Workers installed the air line and performed all pipe work for the new press, and that the 3/8" hydraulic hose the Machinists connected was equipped with quick disconnect coupling which are connected with a twist of the wrist and hand. General Chairman Moorhead's position was that the 3/8" hose was not equipped with quick connect couplings. And, the claim was progressed and conferenced with this as the issue. When Mr. Sayers, sent a manufacturers' specification sheet to Mr. Davidson after the conference, Mr. Davidson responded in part by sending to the Carrier a copy of a letter from Local Chairman Newberry. From Mr. Newberry's letter it is evident that the 3/8" hose which had been the basis of the dispute did have quick-disconnect fittings, which had been consistently denied by Mr. Moorhead. Mr. Newberry's contention that the Carrier was not considering "the piping of the pump or the cylinder" is in conflict with Mr. Jones' investigation of the claim which determined that Sheet Metal Workers installed the airline and performed all pipe work for the hydraulic press." The Carrier, in response to receipt of Mr. Newberry's letter denied that any piping work was performed on a pump or cylinder of the hydraulic press.

The contradictory positions of the parties on the basic facts are such that the Board cannot determine whether, or not the Machinist did do "the piping of the pump or the cylinder." Since the burden of proof is on the Organization, we are compelled to dismiss the claim in so far as it regards piping of the pump or the cylinder.

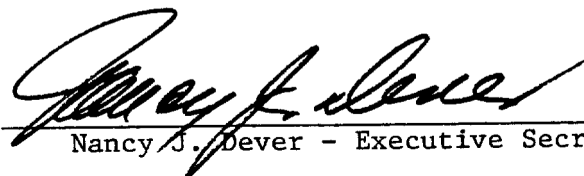
The General Chairman recognized as set forth previously, that the work of connecting a hose by quick-connect coupling was insufficient to support a claim. We recognize that the General Chairman's position that he would withdraw the claim if the only work involved was the connecting of a hose by quick-connect couplings in no way concedes the Organization's position that such is Sheet Metal Workers' work as applied to the installation of a new press.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:



Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 17th day of October 1984.