

NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION

Award No. 10159  
Docket No. 9476-T  
2-SCL-SM-'84

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  
(  
( Seaboard Coast Line Railroad Company

Dispute: Claim of Employees:

1. Continuous claim in behalf of Sheet Metal Workers J. O. Parham, W. K. Petrey, Jr., E. L. Blenman, L. G. Head, Jr., M. M. Moody, D. L. Mains, W. T. Roberts, K. R. Ward, W. L. Carswell, J. E. Hammitt and C. R. Moore.
2. Claim being for four (4) hours per shift, per day, at time and one-half rate of pay until claim is settled, to be divided equally.
3. Claim being due to others (Hostlers & Hosteler (sic) Helpers) disconnecting and connecting of air hose, opening and closing valves by others than Sheet Metal Workers.

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 employes involved in this dispute are respectively carrier and employes 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.

On April 28, 1980, the Organization initiated what is characterized as a continuing claim charging that the Carrier was assigning Hostlers to perform work which was exclusively and historically reserved to the Sheet Metal Workers. The claim specified eleven dates between March 5, 1980 and April 9, 1980 when the Carrier purportedly assigned Hostlers and Hostler Helpers to disconnect and connect rubber air hoses between diesel locomotive units in a consist (as well as opening and closing the connecting valves on the engines) during the second shift at Moncrief Yard. Claimants, Sheet Metal Workers at West Jacksonville, seek twelve hours of pay per day at the overtime rate to be divided among the eleven Claimants for each day the Carrier's alleged violation continues. While the Carrier vigorously contests that the disputed work belongs exclusively to Sheet Metal Workers, it does not deny that Hostlers performed the work on the eleven dates set forth in the original claim.

Citing Rules 85 and 26(a), the Organization argues that the air hoses between diesel locomotives are equivalent to the "...connecting and disconnecting of...steam pipes...". The air hose, which screws into an air pipe on each locomotive is a continuation of a piping conduit and thus, functions like a cast iron pipe. Alternatively, the disputed work has been reserved exclusively to Sheet Metal Workers because the parties have recognized that the work belongs to Sheet Metal Workers pursuant to the final, catchall provision of Rule 85. On the property, the Organization presented written statements from Electricians and Machinists as well as Sheet Metal Workers attesting that, historically, only Sheet Metal Workers have connected and disconnected air hoses between locomotive units. Four Sheet Metal Workers asserted that they regularly traveled from West Jacksonville to Moncrief Yard for the sole purpose of connecting and disconnecting the air lines between units. To further buttress its contention that the Carrier, in the past, assigned the disputed work to Sheet Metal Workers, the Organization provided proof that the Carrier's local officials honored time claims (from 1975 to 1978) based on similar misassignments of the disputed work to Hostlers at Moncrief Yard. Finally, the Organization submits that the prior Shop Superintendent orally assured local Organization officers that Sheet Metal Workers at West Jacksonville would be sent to Moncrief Yard to perform air hose connection and uncoupling as needed. A new Shop Superintendent, according to the Organization, upset a thirty year historical practice and vitiated an August 10, 1975 local understanding by unilaterally taking the disputed work away from Sheet Metal Workers and assigning it to the operating crafts.

At the onset, the Carrier points out that the Organization's original claim covers only eleven specific occurrences of an alleged rule violation and thus, except for vague assertions, the Organization has failed to properly allege a continuing violation. Turning to the merits, the Carrier contends that Rule 85 does not expressly vest Sheet Metal Workers with the exclusive jurisdiction to connect and disconnect air hoses between diesel units. The prior practice demonstrates that the disputed work was not expressly relegated to Sheet Metal Workers but has been customarily performed by a number of crafts including Hostlers and Hostler Helpers. Hostlers are constantly assembling and disassembling consists and, during the course of their normal duties, must incidentally couple and uncouple the air hoses between units. Rebutting the statements tendered by the Sheet Metal Workers, several Carrier Foremen declared that they have observed Hostlers and Hostler Helpers coupling and uncoupling hoses on consists at Moncrief Yard (since 1963). While the Carrier acknowledges the existence of a local understanding between its officials and the Organization's representative (entered into after many forces were relocated to West Jacksonville), it emphasizes that the agreement gave Sheet Metal Workers exclusivity over work involving air hose repairs and certain tests and inspections. Claims were allowed only when there was a high probability that a Hostler not only coupled or uncoupled the air hose but also repaired the hose. Even if the prior Supervisor paid some claims premised entirely on connecting or disconnecting the air hose, the local official's action was not a binding precedent since he lacked the authority to interpret the relevant Agreement. The Organization failed to proffer any documents proving that the Carrier's highest designated officer honored a claim involving the work in question. Moreover, after 1978, the Carrier repeatedly denied claims filed by the Organization pertaining to the assignment of the disputed work to other crafts. Despite the denials, the Organization simply abandoned the claims manifesting an acceptance of the Carrier's position.

The United Transportation Union, in a brief third party statement, declared that since the disputed work does not belong exclusively to the Firemen's craft, other crafts could perform the work. However, employees covered by the applicable UTU-E Agreement may be assigned to perform the work in question.

In this case, the Organization has defined the disputed work as the connecting and disconnecting of air hoses between locomotive units in consists. There is no allegation that another craft either repaired an air hose or performed outbound inspections and tests which are ordinarily accomplished by Sheet Metal Workers. Thus, this Board can only decide if the connecting and disconnecting of air hoses at Moncrief Yard is work exclusively reserved to Sheet Metal Workers by either express rule or past practice.

The disputed work is not expressly enumerated in the Sheet Metal Workers' Classification of Work Rule. Second Division Award No. 9234 (Scheinman). Award No. 9234 found that similar work (the connection and disconnection of passenger car steam connectors) was not expressly within the Sheet Metal Workers' Classification of Work Rule. See also Public Law Board No. 2467, Award No. 1 (Lane). The understanding reached between a local Supervisor and the Organization in 1975 also does not expressly cover the work in dispute since the Organization has provided this Board with only a vague description of the terms of the understanding. In addition, local agreements or accommodations may be evidence of a past practice but are not necessarily enforceable interpretations of the applicable Agreement.


If the work is not expressly within the scope of Rule 85, the Organization bears the burden of proving that Sheet Metal Workers exclusively, customarily, traditionally and historically connected and disconnected the air hoses in question. The evidence presented by the Organization to support the existence of a past practice is, at best, inconclusive. Sheet Metal Workers did occasionally perform the disputed work but not exclusively. When the work was assigned to workers in other crafts, the Organization would sometimes file a claim. The claims were sometimes paid, sometimes denied and appealed and sometimes denied and abandoned. The inconsistent and diverse dispositions of these prior claims demonstrate that the Sheet Metal Workers did not perform the work to the exclusion of other workers. Even before 1979, Hostlers (and others) regularly performed the disputed work during the normal course of switching, assembling and disassembling consists. Absent evidence that the Carrier routinely and regularly sent Sheet Metal Workers to Moncrief Yard solely and specifically to couple or uncouple air hoses between locomotive units, we must deny this claim.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
Nancy J. Decker - Executive Secretary

Dated at Chicago, Illinois, this 5th day of December 1984.