

The Second Division consisted of the regular members and in addition Referee Eckehard Muessig when award was rendered.

Parties to Dispute: (Sheet Metal Workers' International Association
(
(Norfolk and Western Railway Company

Dispute: Claim of Employees:

- 1) That the Carrier under the current agreement, assigned other than employees of the Sheet Metal Workers' Craft (Carmen) to perform work covered by Rule 92 and the current agreement. This improper work assignment consisted of the installation of the sheet metal spacers fabricated by Sheet Metal Workers of 22 gauge metal placed on the inside of the C-18 type cabooses repaired in a program beginning on October 29, 1981.
- 2) That accordingly, the Carrier be ordered to additionally compensate Sheet Metal Workers, P. Panashy, J. L. Rumburg, C. W. Keaton and K. Hall in the amount of two hours for each caboose this work has been performed on beginning on October 29, 1981 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 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.

This dispute came about after the Carrier was required to equip all of its active road caboose cars with certified window glazing. This change required the Carrier to install new window frames and modify its caboose-car bodies. The size of the replacement windows was smaller, necessitating the fabrication of 22 gauge sheet metal spacers by Carrier's Sheet Metal Workers to close the gaps remaining after the new windows were installed.

The Carrier's Carmen were assigned to install the windows and the spacers. However, the Sheet Metal Workers contend that under Rule 92 of the current agreement, the work of installing the spacers should have been assigned to them, resulting in this claim. Responding, the Brotherhood of Railway Carmen of the United States and Canada (Carmen) contend that the work under dispute here is within their jurisdiction. This position flows from its construction of the Carmen's Classification of Work Rule and its assertion that such work historically has been performed by its craft on this property.

From the evidence adduced in the record progressed before the Board, we find that the claim is prematurely before us. In this respect, the Board relies upon Supplement No. 46. Upon the provisions of this Supplement, given the facts of record properly progressed, the Organization has not exhausted its rights under the Agreement and, therefore, the Board has no alternative but to dismiss the claim.


While the Board is aware that the position of Secretary-Treasurer of System Federation No. 40 is vacant, Supplement No. 46 was signed by all crafts and remains in effect until set aside. However, the intent of the Supplement, i.e., to pursue settlement on the property when two Organizations are claiming exclusive right to perform certain identified work, can be carried out without the presence of an incumbent Secretary-Treasurer. Accordingly, while the Board much prefers to dispose of claims on merits, under the circumstances here, this claim must be dismissed.

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 7th day of August 1985.