

The Second Division consisted of the regular members and in addition Referee George S. Roukis when award was rendered.

(Brotherhood Railway Carmen of the United States
(and Canada

Parties to Dispute: (

(Seaboard Coast Line Railroad Company

Dispute: Claim of Employees:

1. That the Seaboard Coast Line Railroad Company violated the controlling agreement when a machinist was utilized to do carmen's work when he operated the wrecker at Florence, South Carolina on March 9, 1981 from 7:00 a.m. until 3:00 p.m.

2. That accordingly, the Seaboard Coast Line Railroad Company be ordered to compensate Carmen T. C. Bailey, Jr., in the amount of eight (8) hours at overtime rate of pay for said violation.

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.

In this dispute, it is the Organization's position that Carrier violated the Controlling Agreement when a Machinist was used on March 9, 1981 to operate a wrecker derrick to change out the trucks under Diesel Unit 746 at Florence, South Carolina. Essentially, the Organization asserts that irrespective of the end use, the operation of a wrecker derrick is indisputably Carmen's work and thus, a Carman should have been called to perform the aforementioned work. The Organization observes that by contract and past practice, Carmen have historically bid in jobs as Wrecker Engineers and have performed the same work as claimed in the instant petition. It does not contest the Machinist Craft's right to change wheels and trucks under diesel locomotives, but maintains that only Carmen have the Agreement protected right to operate the wrecker derrick.

Carrier argues that it was proper for the Machinist to operate the wrecker derrick crane, since none of the Rules cited by the Organization, i.e. 5, 6, 8, 99, 101 and 103 preclude a Machinist from operating a crane or derrick to change out trucks. It avers that no wrecking service was actually or implicitly performed and, as such, Rules 100 and 103 are inapplicable since they only apply to wrecker service. It asserts that no wrecking crew was called on March 9, 1981 to perform this work and notes that it has been the practice for employees other than carmen to operate the derrick crane when making repairs. It submitted three written statements to substantiate this point.

In considering this case, we concur with Carrier's position. The work involved in this instance was the changing of trucks under a diesel locomotive and it belonged to the Machinist Craft. From the record, we are not convinced that the use of the derrick crane to perform machinist work was improper under the circumstances then present, or a clear violation of the Carmen's Agreement. It was not possible to use the mobile cranes ordinarily used by Machinists to perform this type of work, since the locomotive was too heavy and evidence was submitted indicating that it was normal practice for machinists to use the derrick for similar purposes. Accordingly, in the absence of an unmistakable showing that such work accrued to the Carmen, we must, of necessity, deny the Claim. We take judicial notice that the Machinist Craft filed a Third Party Response, consistent with our Rules, but it was neutral in tone and substance and non supportive of either parties' position.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 22nd day of January 1986.