Form 1 NATIONAL RAILROAD ADJUSTMENT BOARD Award No. 10801
SECOND DIVISION Docket No. 10768
2-SSR-SMW-'86

The Second Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.

Parties to Dispute: (Sheet Metal Workers' International Association
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(Seaboard System Railroad

Dispute: Claim of Employes:

1. Carrier misassigned Carmen Petty and Wheeler to remove and replace two signs made of 20 gauge sheet metal.

2. Sheet Metal Worker's Gary Donnelly and S. J. Brady be paid 2 hours and 40 minutes to be divided equally.

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.

Claimants G. Donnelly and S. J. Brady are employed as Sheet Metal Workers by the Carrier, Seaboard System (L&N) Railroad, at its Nashville, Tennessee, Terminal and Maintenance Point. On March 30, 1983, two Carmen removed two signs made of 20-gauge sheet metal. A Carman Painter repainted the lettering and background with the Carrier's new logo. The following week Carmen replaced the sign.

On April 11, 1983, the Organization filed a Claim on the Claimant's behalf, charging that the removal and installation of the signs had been wrongfully assigned to the Carmen, and that such work belonged to the Sheet Metal Workers under the Controlling Agreement. The Organization sought two hours and forty minutes of pay for two Sheet Metal Workers, such compensation to be divided equally.

The Organization contends that the disputed work is classified as Sheet Metal Workers' work under Rule 87 of the Controlling Agreement. Rule 87 provides:

> "Sheetmetal workers' work shall consist of tinning, coppersmithing and pipefitting in shops, yards, buildings, including general office buildings, and on passenger coaches and engines of all kinds; the building, erecting, assembling, installing, dismantling, and maintaining parts made of sheet copper, brass, tin, zinc, white metal, lead, black, planished, pickled and galvanized iron of 10 gauge and lighter . . . and all other work generally recognized as sheetmetal workers' work."

The Organization argues that the removal and installation of signs falls within the meaning of the "dismantling" and "installing" under Rule 87.

The Organization further contends that the disputed work always has been performed by Sheet Metal Workers at the Carrier's Nashville facility; the work, therefore, also is generally recognized as Sheet Metal Workers' work. Even if, as the Carrier alleges but the Organization denies, the disputed work has been performed in the past by members of other crafts, the Carrier cannot use such alleged past practice to disregard the Classification of Work Rule, Rule 87.

The Organization additionally argues that although signs are not specifically mentioned in Rule 87, there is no distinction between 20-gauge signs and any other sheet metal that has to be assembled or installed.

Finally, the Organization maintains that the Claimants were available to do the disputed work either during regular hours or on overtime. The Claimants, therefore, are proper individuals to make this Claim. The Organization therefore contends that this Claim should be sustained, and the Claimants compensated in the amount of two hours and forty minutes at the regular rate, such compensation to be divided equally between the Claimants.

The Carrier contends that the disputed work is not covered by Rule 87 and is not generally recognized as Sheet Metal Workers' work. The Carrier argues that the classification of Work Rules in the various craft Agreements contain overlapping functions, and each such Rule must be considered in conjunction with all the others. The disputed work is not reserved to any craft; it requires no special training or tools.

The Carrier further points out that the disputed work has been performed by members of several crafts; Rule 87 does not cover any work in connection with signs. Also, there is no evidence that the disputed work historically has been performed system-wide by Sheet Metal Workers to the exclusion of all other crafts. Moreover, the Carrier claims that the Sheet Metal Workers have not even removed and replaced all signs at the subject location.

The Carrier additionally asserts that both the Carmen and the Sheet Metal Workers claim the task of replacing signs. This is a jurisdictional dispute between the two crafts and must be resolved between them before either craft may petition the Carrier to concur with the decision. The Carrier argues that the Organization must first resolve its dispute with the Carmen before filing a Claim such as the instant Claim. The Carrier additionally argues that even if the Carmen had conceded the disputed work to the Sheet Metal Workers, the Carrier is not obligated to concur; the Carrier reserves the right to exercise its management prerogatives in running its business.

The Carrier finally asserts that even if the disputed work were reserved to the Sheet Metal Workers, this Claim would not be valid because the work was routine and incidental to the work of another craft. The Carrier contends that the work took a total of thirty minutes, and the Carmen's removal and installation of the signs did not displace any Sheet Metal Worker; therefore, the Claimants have not lost anything. The Carrier therefore contends that the Claim should be denied in its entirety.

This Board has reviewed all of the evidence in this case, and it finds that there is no evidence that the Sheet Metal Workers or any other craft have exclusively performed the work of removing and replacing signs. As a matter of fact, the Carrier has presented convincing evidence that the same type of work has been assigned to a member of a different classification of employees in the past.

The Organization has the burden of proving that its craft has historically and exclusively performed the work in question. See Award No. 9236. The Organization has not rebutted the Carrier's evidence in that regard. Therefore, the Claim must properly be denied.

Moreover, the Carrier argues, without rebuttal, that the work in question took a total of thirty minutes and was incidental to the Carmen's repainting of the logo on the signs. Although the Organization claims more backpay, it presents no evidence that the work took more than the thirty minutes. It is a well-established principle that an employee may perform routine work that is incidental to his primary duties. See Award No. 5327. Hence, even assuming, arguendo, that the work was Sheet Metal Worker work, the de minimis principle would be applicable in view of the short time involved with the work and its incidental relationship to the painting assignment.

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 26th day of March 1986.