

(CORRECTED)

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 10896
Docket No. 10752-T
2-B&O-MA-'86

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

(International Association of Machinists and Aerospace
(Workers
Parties to Dispute: (
(The Baltimore and Ohio Railroad Company

Dispute: Claim of Employees:

1. That the Baltimore and Ohio Railroad Company violated the current Agreement, especially Rule 57 Shop Crafts Agreement when they wrongfully assigned Machinist work to the Carmen and Laborers of removing counterweight from a crane at the Carrier's Cumbo Yards at Martinsburg, West Virginia on April 26, 1982.

2. That, accordingly, the Baltimore and Ohio Railroad Company be ordered to additionally compensate Machinists D. L. Duncan and John Taylor for three (3) hours pay, each at the straight-time rate for April 26, 1982.

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 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.

In this dispute, the Organization contends that the Carrier violated the parties' Agreement when it assigned the work of removing a counterweight from a crane at the Carrier's Cumbo Yards to employees of another craft. It asserts that this work has been exclusively assigned to and recognized as accruing to the Machinists' craft historically and by application of Rule 57 of the parties' Agreement.

The International Brotherhood of Firemen and Oilers has filed a Third Party response to this Claim in which it observed that:

". . . the work in this dispute, the transporting of material from Cumbo Yard to Martinsburg Reclamation Shop is work of which the preponderance has been performed by custom [and] practice * * * [by] shop and car department laborers * * * at the Martinsburg facility as well as other points of the Carrier".

At the outset, the Board notes that the Third Party intervention essentially addresses the transporting of material. The record shows that the Machinists did not claim this as work accruing to it, rather it asserted only a right to the work of removing the counterweight. This is the sole issue before the Board.

With respect to the parties' construction of that part of Rule 28 of the Agreement concerning separate seniority points, there are insufficient facts in the record on this issue of the dispute. Consequently, the Board makes no Findings on this question.

With regard to the disputed work, we conclude that the evidence supports the Organization's core assertion. The Carrier used the term "salvaging" to characterize the work that is relevant to this Claim, i.e., the removal of the counterweight. The Board, under the pertinent facts and circumstances herein, fails to see a meaningful distinction between that term and "dismantling" as used in Rule 57 of the Agreement. Therefore, we find that the removal of the counterweight is work that accrues to the Machinists.

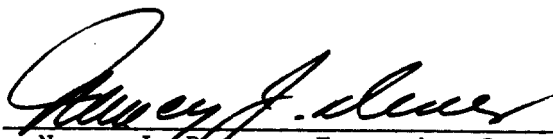
With respect to Part 2 of the Claim, the Board notes that the damages claimed were not challenged on the property, although the Carrier had ample opportunity to do so. Accordingly, following the same concepts that control the parties, with respect to other matters not raised on the property, we also sustain Part 2 of the Claim.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 25th day of June 1986.