

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

(Sheet Metal Workers International Association
Parties to Dispute: (
(The Chesapeake and Ohio Railway Company

Dispute: Claim of Employees:

1) That the Carrier under the current working agreement assigned the carman craft to perform work covered by Part IV of the Memorandum of Understanding of September 14, 1964. This work assignment consisted of fabricating and installing twenty two (22) sections of hand railings to new scaffolding being constructed.

2) That accordingly, the Carrier be ordered to additionally compensate Sheet Metal Workers G. Poling, N. Neal, H. Martin, R. Baldwin, L. R. Fraley, P. Carman, B. Ford, R. Townsend, K. Brown, L. Kitchen, D. Doyle, C. Wolfe, T. Holsinger, K. Barker, J. Strugill, D. Carpenter, R. Vanderpool, C. Carman, T. Stiverson, and J. Jergler for four (4) hours straight time day for each section of hand rail fabricated.

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.

During August, 1982, Carmen constructed scaffolding on No. 1 Track at the Carrier's Raceland Car Shop at Russell, Kentucky. For safety purposes, twenty-two sections of hand railing were constructed of 5/16" x 2" angle iron with cross braces of 1/4" x 2" bar stock cut to required lengths. The Carmen spent about .08 man-hours per section fabricating and two man-hours per section installing the railing for a total of about 46 man-hours.

The Organization maintains that such work has always accrued to Sheet Metal Workers in accordance with a September 14, 1964 Memorandum. The Carrier argued that such work has always been performed by Carmen whenever railing was made of material other than pipe or tubing, consistent with the Shop Crafts' Agreement and the September 14, 1964 Memorandum. Moreover, the Carrier maintains that the Claim is without contractual support since it seeks 1,760 hours' pay for work which was completed in approximately 46 hours. Finally, the Carrier notes that the Claim is improper since it reflects a jurisdictional dispute and this Board has no authority to resolve same.

It is abundantly clear from the record in this matter that both the Sheet Metal Workers' and the Carmens' Organizations claim jurisdiction over the work in question. The dispute cannot be more accurately characterized than as one of jurisdiction between two Unions. We note from Supplement No. 6 of the Controlling Shop Crafts Agreement that:

"... in the event of a jurisdictional dispute between crafts, that this dispute must be taken up between the crafts involved before such dispute is handled with Management."

There is no evidence before us that the Claimants' Organization first pursued the matter with the Carmen before taking it to the Carrier for resolution. Accordingly, and in concert with numerous Second Division Awards (for example, 10111, 10094, 10050, 8319, 8268, 7712, 7491, 7482, 7296, 7255, 7152), we must dismiss the Claim. We quote Award 7255 in support of this conclusion:

"There are a host of recent Awards by this Division attesting to the fact that this Board, under the circumstances described above, does not assume jurisdiction over disputes between Organizations and we are therefore constrained to dismiss the claim. See Second Division Awards 7092, 7059, 7058, 6872, 6848, 6825, and many others."

We note the Organization's argument that the work in question falls under the coverage of the September 14, 1964 Memorandum, and that accordingly the dispute is one of interpreting that Memorandum, not one of competing jurisdiction between two Unions. The relevant portion of that Memorandum is quoted below:

"Carmen claim that installing of hand rail around propane tanks just north of acetylene house by Sheet Metal Worker is Carmen's job is declined. It has always been the practice that Sheet Metal Workers in Mechanical Department fabricate and install railings in and around buildings and machines within the Car Shop enclosure when such railings are made of pipe or tubing."

Form 1
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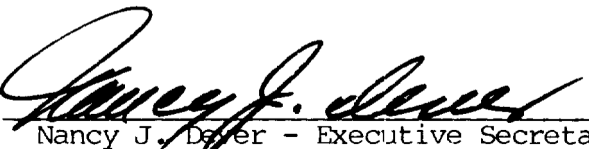
Award No. 11070
Docket No. 10461-T
2-C&O-SMW-'86

In the instant case, the railings were not made of "pipe or tubing," they were made of angle iron. Accordingly, we conclude that the above quoted Memorandum does not apply.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: 
Nancy J. Dwyer - Executive Secretary

Dated at Chicago, Illinois, this 19th day of November 1986.