

The Second Division consisted of the regular members and in addition Referee Marty E. Zusman when award was rendered.

(International Brotherhood of Firemen and Oilers  
Parties to Dispute: (  
(Seaboard System Railroad

Dispute: Claim of Employees:

1. That under the current controlling agreement employees other than Laborers were improperly used to perform the work of operating the fork lift to pick up and deliver material and equipment, dump trash into the dumpsters, wash down floors under ramps, wash engines and cleaning air compressor compartment of engines at Seaboard System Railroad, Uceta Shops, Tampa, Florida.

2. That accordingly, the Carrier be ordered to compensate Laborer's time and one-half rate of pay for the amount described in Attachment "A".

ATTACHMENT "A"

| No. | Claimant        | Date of Violation | Amount of time Claimed | Work Performed In Violation                          |
|-----|-----------------|-------------------|------------------------|--|
| 1.  | R. Wilson       | 2/03/84           | 1. hr 30 min.          | Washed Engine No. 1794                               |
| 2.  | B. Bludsaw, Jr. | 2/03/84           | 2 hours                | Washed Engine No. 379                                |
| 3.  | E. I. Everette  | 2/09/84           | 3 hours                | Moved material with fork-lift                        |
| 4.  | S. A. Johnson   | 2/10/84           | 1 hour                 | Washed Engine No. 1750                               |
| 5.  | M. E. Smart     | 2/15/84           | 8 hours                | Drove fork-lift                                      |
| 6.  | J. M. Bass      | 2/15/84           | 45 minutes             | Washed an engine                                     |
| 7.  | J. M. Bass      | 2/24/84           | 6 hours                | Drove fork-lift                                      |
| 8.  | G. J. Brown     | 3/01/84           | 2 hours                | Washed floor underneath the ramp                     |
| 9.  | B. A. Smith     | 3/02/84           | 3 hours                | Washed Engine No. 1809                               |
| 10. | M. A. Harvey    | 3/02/84           | 1 hr. 30 min.          | Washed Engine No. 1784                               |
| 11. | E. L. Williams) |                   |                        |  |
|     | R. W. Nail )    |                   |                        |  |
|     | L. J. Jones )   | 3/06/84           | 5 hours                | Washed the ramps and No. 1 pit.                      |
|     | A. Hill )       |                   |                        |  |
| 12. | R. Wilson       | 3/16/84           | 3 hours                | Dumping garbage cans in the shop                     |
| 13. | M. E. Smart     | 3/16/84           | 3 hours                | Dumped garbage cans at Uceta Enginehouse             |
| 14. | A. Hill         | 3/22/84           | 2 hours                | Washed the floor under Ramp 2 and the Pit in Track 2 |

|     |                |         |         |  |
|-----|----------------|---------|---------|--|
| 15. | G. J. Brown    | 3/22/84 | 2 hours | Washed the floor under Ramp No. 2 and the Pit in Track No. 2 |
| 16. | L. J. Jones    | 3/26/84 | 6 hours | Cleaned the air compressor compartment of Engine No. 372     |
| 17. | M. A. Harvey   | 3/26/84 | 6 hours | Cleaned the air compressor compartment of Engine No. 372.    |
| 18. | C. C. Phillips | 3/26/84 | 3 hours | Washed the floor under Ramp No. 2 and washed Pit No. 2.      |

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.

Claim on behalf of Laborers was initiated by the Organization in April, 1984. It alleges that Carrier violated the Scope Rule of the Fireman and Oilers Agreement when they assigned Laborers work to various Crafts not covered under the Agreement. In the separate Claims as handled on property, the Organization charges that the Carrier is in violation of the Agreement by using Boilermakers, Machinists and Electricians to operate fork lifts, deliver materials, wash floors under ramps, dump trash and do other work belonging to Laborers under the Fireman and Oilers Agreement.

The Carrier denies any Agreement violation. It argues that such work has never been exclusively reserved to the Fireman and Oilers and in fact has historically been required of all Shop Crafts in the maintenance and safety of their work areas. It further notes that in two similar cases on the property there was no evidence indicating exclusivity in denial Awards under similar circumstances (Public Law Board No. 2941, Award 1 and Award 2). It denies that in any of the aforementioned alleged violations that there is exclusivity reserved to any Craft.

This Board has carefully reviewed the evidence as presented on the property and finds nothing in the Agreement Rules cited of clear and unambiguous language assigning such work as herein disputed exclusively to the Laborers' ranks. Nor does this Board find probative evidence presented by the Organization to establish by history, practice or tradition that such work belongs exclusively to those of the Fireman and Oilers on a systemwide basis. Evidence of record does not provide sufficient evidence to carry the Organization's burden in establishing a Scope Rule violation.

The burden of proof lies with the Organization in the Claim at bar and it has failed to sustain its burden. It is our determination after reviewing all pertinent Rules, evidence and Awards cited in support, that the work herein disputed has been a shared responsibility within the specific conditions of "work areas" as in the facts of this case. As such, this Board must deny the Claim as the Organization has not met its burden of proof.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
Nancy J. Deyer - Executive Secretary

Dated at Chicago, Illinois, this 11th day of February 1987.