

CORRECTED

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION

Award No. 11470  
Docket No. 11380-T  
88-2-87-2-19

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

PARTIES TO DISPUTE: (Sheet Metal Workers International Association  
(  
(Union Pacific Railroad Company

STATEMENT OF CLAIM:

That the 3 Sheet Metal Workers, E. J. York, J. B. Zola and G. H. Campbell, now furloughed at Stockton, California be recalled to fill 1 position on the second shift, 1 position on the third shift, and 1 relief position which formerly existed and which is hereby requested to be re-established at Stockton to perform the work which was historically assigned to the Sheet Metal Workers on these shifts prior to the furloughs on September 13 and 24, 1985. The 8 hours at claimants straight time rate is claimed for each claimant for each and every work day of claimants individual former assignments, until the claim is satisfactorily settled and the violations is stopped.

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.

As Third Party in Interest, the Brotherhood of Maintenance of Way Employes was advised of the pendency of this dispute and did not file a Submission with the Division.

The Organization asserts that the Carrier violated Rules 32 and 109 of the Agreement when it furloughed three Claimants and allowed other than Sheet Metal Workers to perform Sheet Metal Work. It maintains that the work of coupling and uncoupling specific air hoses, checking the operation of the sanders, checking the locomotive toilets, and checking and adjusting the water or coolant level in radiators was assigned to the Sheet Metal Workers Craft and after furlough done by another Craft. Carrier's failure to show a decrease in work load while eliminating positions and assigning said work to others is a violation of the Agreement.

Carrier denied all of the Organization's assertions. It maintains that furloughs occurred as work decreased. The Carrier argues that none of the disputed work was assigned exclusively to Sheet Metal Workers, nor has any Sheet Metal Work been assigned to another Craft. It further notes that two of the Claimants had voluntarily severed their employment with the Carrier and that Claimants were being fully compensated and lost no wages. It denies any Agreement right for a penalty payment as claimed by the Organization.

This Board concurs with the Carrier in the instant case. The Organization had the burden to demonstrate explicit language in the Agreement that indicated said work belonged to Sheet Metal Workers, or that said work was exclusively theirs by system wide practice. The Board finds neither. The disputed work is not listed in the classification of work rule. Nowhere in the record does the Organization demonstrate by probative evidence that the work herein disputed belonged exclusively to its craft.


The Organization has failed to establish all of the necessary specifics of the claim. In addition to Organization's required showing that said work belonged to its craft, there is no evidence to show when it was performed by employees of another craft or the dates and specifics of the occurrence. A careful review of the Rules finds no evidence developed on property to substantiate a violation. Even if a violation were found, which it most assuredly was not, the Board is not empowered to reestablish a position at Stockton which is requested by the Claim (Second Division Award 11135). The instant Claim must be denied for lack of proof.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
Nancy J. Bever - Executive Secretary

Dated at Chicago, Illinois, this 27th day of April 1988.