

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  
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(The Atchison, Topeka and Santa Fe Railway Company

STATEMENT OF CLAIM:

1. That the Atchison, Topeka and Santa Fe Railway Company violated the controlling agreement, specifically Rule 81, 82 and Appendix 6 as well as past historical practice when they arbitrarily assigned Sheet Metal Worker's work to other than (Laborers) Sheet Metal Workers.

2. That accordingly, The Atchison, Topeka & Santa Fe Railway Company be ordered to compensate Grand Division Sheet Metal Workers R. H. Sedlock and D. H. Decaney in the amount of three and one-half (3 1/2) hours pay at over-time rates.

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 International Brotherhood of Firemen and Oilers was advised of the pendency of this dispute and filed a Submission with the Division.

Claim of the Organization is that Carrier violated Rules 81, 82 and Appendix 6 when it allowed other than Sheet Metal Workers to pump the fluids from the west pit of Track 523. The Organization argues that said work belongs to its employees and the use of Laborers violated Agreement language and past practice.

The Carrier denies that in the instant case Sheet Metal Workers have the Agreement right to pump the fluid buildup as such day-to-day work has always been performed by shop personnel. It is the Carrier's position that only when exceptional conditions occur, (such as a natural flood) are Sheet Metal Workers utilized.

Our review indicates that laborers utilizing a portable pump to dispose of fuel in the pit, accidentally drained the fluid into the city sewer system, rather than the Carrier's disposal manhole. Although the Organization claims that normal conditions did not exist on August 17, 1986, the date of the claim, the Board finds insufficient substantive evidence to support that general view. In addition, we have carefully reviewed Rules 81, 82 and Appendix 6. There is nothing in Rule 81 (Sheet Metal Workers' Qualifications) or Rule 82 (Sheet Metal Workers' Classification of Work) that lists the disposal of fluids in a pit by use of a portable pump.

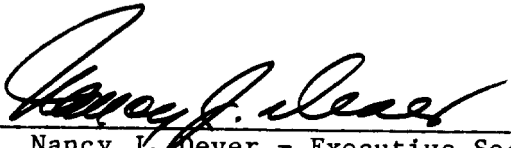
This Board has also carefully reviewed Appendix No. 6. There is no evidence presented by the Organization to support the applicability of this provision to the instant dispute. In the absence of specific language and the Carrier's refutation of same, this Board must turn to past practice.

The Board finds no evidence in the record that the disputed work has been performed exclusively by Sheet Metal Workers on this property or system wide. Carrier states that laborers have historically done this work both on this property and at other points on the system. The Organization's Claim of past practice is not supported by evidence of record. As in similar cases before this Board, the Claim is denied for lack of specific Rule language and proof (Second Division Awards 11246, 11535, 11422).

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 8th day of November 1989.