

The Second Division consisted of the regular members and in addition Referee George S. Roukis when award was rendered.

PARTIES TO DISPUTE: (Sheet Metal Workers International Association
(Southern Railway Company)

PARTIES TO DISPUTE:

1. Carrier misassigned Machinists in the bleeding of air from hydraulic lines and reservoirs on rabbits at wheel shop June 1, 3 and 5, 1987.
2. That Sheet Metal Workers (Pipefitter) Nathaniel Carter be paid six (6) hours at pro rata rate of pay.

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.

It was the Organization's contention that when Carrier assigned a Machinist to bleed air from hydraulic lines and reservoirs on rabbits at the Knoxville, Tennessee Wheel Shop on June 1, 3 and 5, 1987, said assignment violated Rule 116 of the Sheet Metal Workers Controlling Agreement and also Paragraph 1(a) of the Memorandum of Understanding for Disposition of Jurisdictional Disputes. Specifically, the Organization asserted that Sheet Metal Workers (Pipefitters) had traditionally performed this work at this locale since 1962 and accordingly, said work was clearly generally recognized as Sheet Metal Workers' work. Several statements were submitted by Sheet Metal Workers confirming this work jurisdictional claim and also a letter by a retired Wheel Shop Foreman who stated that since 1962 Pipefitters made all hydraulic repairs when necessary and bled the air from these systems. The Organization further asserted that even though the General Chairman did not agree that a jurisdictional dispute existed, he nevertheless discussed the matter with the Machinists' General Chairman, but to no avail. Consequently, pursuant to the holding in Second Division Award 6774, where the Board held that Division jurisdiction was warranted when competing craft organizations could not resolve an alleged jurisdictional dispute, the Board should render a dispositive award.

The Machinists Organization as a party in interest filed an Ex Parte Submission asserting a similar claim to the work. It argued that Rule 66 of its Agreement encompassed this work and also submitted several statements from Machinists at the Wheel Shop attesting they bled the hydraulic system on rabbits. The Machinist Organization observed that in 1984 the matter was apparently settled when the crafts signed a Memorandum Agreement resolving outstanding jurisdictional disputes including a similar type of work claim.

On the other hand, Carrier maintained that the Organization has created a jurisdictional dispute that should be resolved in accordance with the procedures of the Memorandum of Understanding of the Disposition of Jurisdictional Disputes. It referenced several Division Awards whereby the Board dismissed similar type claims and referred said claims back to the crafts to resolve in accordance with the procedures of the Memorandum of Understanding. See for example Second Division Award 6809 involving the same Carrier and the Carmens Organization and the Sheet Metal Workers as a party of interest. Also, see Second Division Award 7199 involving the same parties herein. In that Award, the Board held, in part:

"In assigning the work to the Carmen, the Carrier has not taken the established work from either craft. It is clear that a jurisdictional dispute, not previously resolved, does exist. In keeping with many previous awards, this Board finds that resolution may be sought by the crafts only through the Memorandum of Understanding and not from this Board."

Furthermore, as to the dispute's merits, Carrier argued that Rule 116 of the Sheet Metal Workers' Agreement does not confer upon this craft the exclusive right to perform this work, since the bleeding of air from the hydraulic system of rabbits is not mentioned in the Rule. It conceded, however, that Sheet Metal Workers played a major role in the installation and maintenance of the hydraulic systems on this machinery, but noted that members of the Machinist Craft have bled air from the hydraulic systems of rabbits.

In considering this case, the Board takes judicial notice that the respective General Chairman tried to work out a solution of the Claim on the property. This would appear to be in conformance with the Memorandum of Understanding for the Disposition of Jurisdictional Disputes. Since the crafts were unsuccessful in this attempt and given our holding in Second Division Award 6774, we must conclude the matter is properly before us for adjudication.

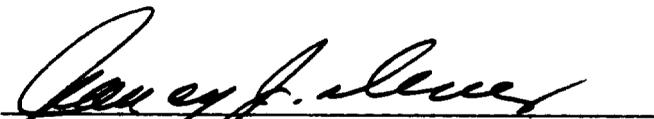
Conversely, in the absence of clear Rule language that unmistakably reserves such work to the petitioning craft, such as here, we must carefully analyze the evidence submitted to determine whether the work was generally recognized as Sheet Metal Workers' work. The Sheet Metal Workers have submitted letters from individual Pipefitters attesting they performed this work as well as a letter from a retired Wheel Shop Foreman that since 1962, Sheet Metal Workers made the hydraulic systems for the rabbits and bled the air from these systems. Counterpoised to these proofs, the Machinists' Organization submitted similar work claim representation letters and the present Wheel Shop Superintendent indicated that the bleeding of hydraulic systems was basically recognized as Machinist work. Accordingly, since Rule 116 is silent on the matter of bleeding air from the hydraulic lines and reservoirs on rabbits and since there appears to be a dichotomous practice of assigning such work to both Sheet Metal Workers and Machinists at the Knoxville, Tennessee Wheel Shop, the Board cannot conclude that the work singularly accrued to the Sheet Metal Workers' craft. The record did not contain the quantum and quality of proof needed to sustain the Claim.

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 25th day of July 1990.