

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONAward No. 12675
Docket No. 12403-T
94-2-91-2-201

The Second Division consisted of the regular members and in addition Referee Joseph S. Cannavo, Jr. when award was rendered.

(International Brotherhood of Electrical
Workers
PARTIES TO DISPUTE: (
(Burlington Northern Railroad Company

STATEMENT OF CLAIM:

- "1. That in violation of the governing Agreement, Rule 76 in particular, the Burlington Northern Railroad Company arbitrarily assigned members of the Machinist craft to perform Electrical Craft Work.
2. That accordingly the Burlington Northern Railroad Company be ordered to compensate Mechanical Department Electrician Henry Hamaoka of Havre, Montana, in the amount of sixteen (16) hours of the punitive rate of pay for said violation."

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 employe 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 Association of Machinists and Aerospace Workers was advised of the pendency of this dispute and did file a Submission with the Board.

This claim arises out of an incident on June 20, 1990, when two Machinists and one Supervisor were dispatched from Havre Diesel Shop to a location near Whitefish, Montana to remove the defective number 3 traction motor from BN Locomotive 7256 and replace it with a dummy wheel assembly. After completing the assignment, the

Machinists and the Supervisor returned to the shop on June 21, 1990.

The issue before the Board is: Whether or not the Carrier is contractually obligated to assign Electricians to accompany Machinists and perform the disconnecting and connecting of traction motor leads and other electrical equipment when changing out a bad order traction motor at an on-line location. Rule 76 is applicable and states in pertinent part:

"Rule 76 - (Classification of Work)

Electricians' work shall consist of:

...
They shall also connect and disconnect traction motor cables from the locomotive, including clamps, lugs, ground straps, insulating boots, sleeves and retaining blocks." (Emphasis added)

The Organization states as its claim the Carrier violated Rule 76; in particular that the Burlington Northern Railroad Company arbitrarily assigned members of the Machinist craft to perform Electrical Craft Work.

The Electrician's claim is based upon the contention that the work involved in this instant case is work which is exclusively reserved for the Electricians Craft in accordance with the Schedule Agreement.

Additionally, the Organization argues that the work performed by the Machinists was in excess of two hours work as provided by Rule 7; that the Claimant was available to perform the work; that the amount of hours getting to and from the job is considered "work"; and that Electricians exclusively perform the work of disconnecting and connecting traction motors all over the Carrier's system.

The Carrier's position is that the claim is without merit based on the Agreement and further, the Organization has provided no evidence in support of their allegations. A complete review of the Rule 76 fails to reveal any language which may be construed to specifically cover the work involved herein, the disconnecting of traction motor leads and related wiring from locomotive at an on-line location, to be Electrician's work.

The Carrier contends that even though the work connecting and disconnecting the traction motor leads is described in the Rule,

the Classification of Work Rule 51 for the Machinists states that, were applicable:

"Machinists work shall consist of:

- ...
4. Applying and removing locomotive equipment, components and appurtenances such as main generators, alternators, starter motors, auxiliary generators, traction motors, journal boxes,..." (Emphasis added)

This rule describes the removing of the traction motors as work that can be assigned to Machinists. Both rules describe the work in question, since connecting the traction motor leads is part of removing the traction motor.

The Carrier also relies on Rule 7 which states:

"Rule 7 (Emergency Road Work)

- (d) In case of wrecks where engines are disabled electrician(s), if necessary to perform electrician's work, shall be sent to the wreck site provided that there is at least two hours of electrician's work to be performed." (Emphasis added)

Finally, Carrier states that the work claimed by the Electricians took twenty minutes to perform.

The Board has determined that the work in question is covered by Rule 76 of the Controlling Agreement which states:

"They (Electricians) shall also connect and disconnect traction motor cables from the locomotive..."

The Carrier raised numerous questions which, but for the clear and unambiguous language of Article 76, would cause it to prevail in this matter. The Carrier's evidence regarding the time it would take for Electricians to perform the work was not conclusive as the type of vehicle was not determined in its evidence; further, the letters submitted by former supervisors stating that Electricians were never dispatched to on-line locations was not only hearsay, but it was not the best evidence that could have been presented by the Carrier. The Board is not unmindful of the conflict of language as found in Rule 76, above, and the Classification of Work Rules for the Machinists which includes:

4. Applying and removing locomotive equipment, components and appurtenances such as generators, alternators, starter motors, auxiliary generators, traction motors, journal boxes, roller bearing adaptor boxes, end caps and adapters for axle driven equipment, blower motors, shop electric motors on shop machinery, coiling fan motors, grab irons, railings, pilot beams, guards, exhaust systems and manifolds...." (Emphasis added)

Rule 98(c) was also interjected into the proceedings. This rule preserved the existing rights of the Organizations in a contractual relationship with the Carrier's predecessors prior to their merger. However, inconclusive evidence was introduced substantiating the position of either party as to the probative value of this Rule in the instant case.

Further, reliance on Appendix "L" is not supported by the record.

The Board is aware of Second Division Award 11932 and it is not the intent of this Board to disturb that Award. Award 11932 is distinguished from the instant case in that the location of the repairs - a running repair facility and a major repair point - invoked the Incidental Work Rule.

The Board has also concluded, however, that the petitioning craft has failed to resolve the work jurisdictional dispute in accordance with the requirements of Rule 93. Therefore, this Board will rely on its decision in Award 6962 as we do not find any of the positions asserted, herein determinative. Therefore, as per Rule 93, it is up to the parties to, in the first instance, attempt to settle this dispute among themselves.

A W A R D

Claim dismissed in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Catherine Loughrin / lu
Catherine Loughrin - Interim Secretary to the Board

Dated at Chicago, Illinois, this 6th day of April 1994.