Form 1 NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 12928
Docket No. 12862
95-2-94-2-2

The Second Division consisted of the regular members and in addition Referee Charlotte Gold when award was rendered.

PARTIES TO DISPUTE: (International Brotherhood of Firemen
(and Oilers
(
(CSX Transportation, Inc. (former
(Seaboard Coastline Railroad)

STATEMENT OF CLAIM:

"1. That the CSX Transportation, (formerly Seaboard Coastline Railroad Company), violated the terms of the Labor Agreement when it failed to call E. E. Fields (Claimant) on March 1, 1993 to fill a vacancy of the "Traveling Service Supplyman".

2. That the CSX Transportation (formerly Seaboard Coastline Railroad Company), be ordered to compensate Ms. E.E. Fields (Claimant), 8 hours at the time and one-half rate which is the amount of compensation she was denied because of the Carrier's improper application of the presiding agreement."

FINDINGS:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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 were given due notice of hearing thereon.

This claim arose when, on March 1, 1993, Carrier elected to blank the second shift position of a Traveling Service Supplyman in Tampa, Florida, who was off account personal illness. The Organization contends that Section III, (A) and (B) of the February 20, 1992 Agreement compels Carrier to use a Traveling Service Supplyman (TSS) to accompany a Traveling Service Truck that is utilized to perform line-of-road locomotive servicing work. The cited provisions read as follows:

"Section III

A. Regularly established route/trip assignments will be by bulletin to qualified TSS employees. In addition to the normal bulletin information, TSS bulletins will identify geographical areas to be covered by the assignment.

1. Consideration will be given to anticipated time requirements to minimize away from home rest periods.

2. When route/trip is made by "off duty employees," assignment will be by call from rotating call boards so as to equalize opportunity.

3. On scheduled runs, the TSS employee will be teamed up with a Traveling Service Mechanic (TSM). On unscheduled runs requiring only the recognized work of one craft, the required craft employee, TSS or TSM, will be called.

B. TSS vacancies on regular assignments or unscheduled runs will be filled first by qualified on-duty employees from the applicable overtime board or list, followed by calling qualified off-duty employees, in accordance with Section III A(2)."

The Traveling Service Truck in Tampa is normally manned by a TSS, as well as a Traveling Service Mechanic (TSM) and a driver who is employed by a leasing service that provides the truck.

This claim was filed on behalf of the TSS on the first shift. The Organization also points to Section I(B) of the 1992 Agreement, which states:

> "TSS-qualified employees will be identified on the Firemen and Oiler Seniority Rosters at various locations where service trucks are assigned. The locations proposed for initial assignment of service trucks are listed in Attachment "A" hereto. Such TSS qualified employees will be assigned the work of locomotive servicing on locomotive units on line-of-road and at other locations, such as yards, service tracks, etc."

The Organization believes that the work normally done by a TSS was performed by someone on March 31, 1993, and argues that since there is no regular relief employee, the work accrues to another regular employee. In addition to the language of the Agreement that mandates that TSS employees will be called and assigned the work, the Organization also points to bargaining history to support its position.

In rejecting this claim, Carrier maintained that there is no mandatory manning requirement in the February 20, 1992 Agreement. Carrier has the option of determining when a vacancy is to be occupied. Once that decision is reached, the Agreement dictates how the position is to be filled.

Carrier also contends that there is nothing in the 1992 Agreement or in the Scope Rule, which is general in nature, that reserves any particular locomotive servicing function to Firemen and Oilers. Carrier signed a similar Agreement with the International Association of Machinists and Aerospace Workers in 1992. Both Agreements provide that locomotive servicing work will be performed by either craft.

Carrier points out that there is no proof that work was performed by a Machinist. Even if the work was performed and the Organization were able to establish its exclusive right to it, the Incidental Work Rule contained in Article V of the November 27, 1991 imposed National Agreement would give Carrier the right to assign the work to another craft.

This Board reviewed the entire record of this claim and concludes that it must fail for several reasons. First and foremost, we do not read the language of the February 20, 1992 Agreement to require Carrier to fill all vacant positions. Were that the parties' intent, we would expect that understanding to be spelled out unequivocally, given the clear limitation it imposes on Carrier's historical right to direct the workforce and determine the work to be performed.

Additionally, if the argument is made that the work in question was transferred to another craft in violation of the Agreement, the Organization failed to identify what that work was and by whom it was performed. Carrier is correct when it notes that the Scope Rule is general in nature. By the same token, in signing the 1992 Agreement, the parties appear to accept the fact that, historically, certain work is "recognized F&O work." (See, for example, Side Letter 4, February 20, 1992.) Thus, if the major portion of this work was transferred to another craft, one can assume that there would be the basis for a valid claim.

While both the IAM and IBF&O Agreements in 1992 indicate that positions will be established for the purpose of performing line-of-road locomotive servicing work, the demarcation between crafts is further drawn in Side Letter 5, wherein it states that "... while working TSM and TSS employees at away-from-home locations, the TSM will be primarily responsible for mechanical inspections and minor repairs and the TSS will be primarily responsible for servicing and supplying locomotives." The fact that one craft is primarily responsible for certain work means that another craft may perform it on an incidental basis. This notion is further supported in Side Letter 5 by the statement, "However, the TSM and TSS will perform required work as necessary to insure the work is performed safely and expediently."

In the final analysis, it cannot be determined what, if any, work was performed by a non-craft employee. But if, in fact, generally recognized F&O work was done on an incidental basis, no violation could be said to exist.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 16th day of August 1995.