

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 12953
Docket No. 12601
95-2-92-2-140

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

PARTIES TO DISPUTE: (International Association of Machinists and
(Aerospace Workers
(
(St. Louis Southwestern Railway Company

STATEMENT OF CLAIM:

"That the Carrier compensate the Claimant [B.G. Glover] for eight (8) hours daily, beginning September 16, 1991, and continuing until the misassigned work is properly assigned to the Machinists' Craft."

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 waived right of appearance at hearing thereon.

On September 16, 1991, at the request of the owner of certain cars, Carmen were assigned the job of inspecting roller bearings on these cars at Pine Bluff. In order to inspect the bearings, the Carmen must use a torque wrench. If defective bearings are found, the Carmen do not repair the bearings.

The Machinists' Organization has filed this claim. It is the Organization's position that the Carmen are required to use certain tools to make this inspection, ergo it is machinists' work. Many tribunals have held that the use of a certain tool does not determine what craft is to perform what work. In Second Division Award 10753, the Board held:

"We do not agree that the use of a torque wrench as a tool is reserved exclusively to any class of employees. No employee has the exclusive right to the use of a tool. In Award No. 6696 this Board held:

'...It is well established that no employee "owns" a piece of equipment belonging to Carrier and has exclusive rights to use same.'

In Award No. 7642 we held in part:

'...The mere fact that a specific tool is being used does not automatically bring the work within the scope of the rule. The organization must first show that the work falls within the scope of the rule before a violation of a work classification rule can be established. The term "work" admittedly has numerous meanings.'

See also Award Nos. 8072, 6266 and 6701 of this Division. In Award No. 8072 we quoted the following from Third Division Award No. 12231:

'...In the course of supervisory work, there are occasions when the supervisor finds it necessary to actually use tools, as was done in the instant case...'

The use of the torque wrench by the Quality Control Officer in the present case was strictly in connection with his duties as a Supervisor to check the work previously performed by a Machinist. Such was not in violation of any Agreement Rule cited."

It is well established that the burden of proof is upon the Organization to demonstrate that the work claimed is covered by a specific Classification of Work Rule or an exclusive systemwide practice. The Carrier argues that the Organization has failed to meet this burden.

The Machinist's Classification of Work Rule 43 states:

"Machinists' work shall consist of laying out, fitting, adjusting, shaping, boring, slotting, milling, and grinding of metals used in building, assembling, maintaining, dismantling, and installing locomotives and engines (operated by steam or other power), pumps, cranes, hoists, elevators, scale work (when brought to the shop), pneumatic and hydraulic tools and machinery; ratchet and other skilled drilling and reaming; tool and die making, tool grinding and machine grinding, axle truing, axle, wheel, and tire turning and boring; engine inspecting; air equipment, lubricator and injector work; removing, replacing, grinding, bolting and breaking of all joints on superheaters; oxy-acetylene, and electric welding on work generally recognized as machinists' work, on this Carrier, the operation of all machines used in such work, including drill presses and bolt threaders using a facing, boring or turning head or milling apparatus, and all other work generally recognized as machinists' work on this carrier."

This Board finds Rule 43 does not specifically reserve the work of inspecting roller bearings to the Organization. Nor has the Organization shown that the work has normally been performed by machinists. This is a burden, which through countless prior Awards, has been required to sustain the claim. Failing to find so, this Board must deny the claim.

AWARD

Claim denied.

ORDER

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

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NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 18th day of September 1995.