

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 12962
Docket No. 12734
95-2-93-2-91

The Second Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

PARTIES TO DISPUTE: (International Association of Machinists
(and Aerospace Workers (District 19)
(Consolidated Rail Corporation

STATEMENT OF CLAIM:

"1. The Consolidated Rail Corporation violated the Rules of the Controlling Agreement of May 1, 1979, and, particularly Rule(s) 2-A-1, 2-A-3, 2-A-4, 5-F-1, Appendix "C", Scope Rule, and Past Practice and Customs.

2. Accordingly, the claimant is entitled to the payment as requested of 3 hours pay at the applicable rate for the date of 1/10/92 because of the misassignment of Machinist's work (removing of steps from a locomotive) to employees of the Boilermaker 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.

As Third Party in Interest, the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers was notified of the pendency of this dispute and filed a Submission with the Board.

This is a claim for three hours' pay for a Machinist for work performed at the Juniata Back Shop. As described by the Organization, two Boilermakers "burnt steps off" a locomotive unit. The Organization contends that Machinists "have always done this work . . . of removing steps."

The Carrier's version of what occurred is stated as follows:

"On January 10, 1992, two employees from the Boilermakers craft were repairing a wrecked locomotive at the Juniata Shop. In order to renew steel pilot sheeting and step wings that were badly bent, it was necessary for the boilermakers to remove the steps by cutting (burning) the metal with a torch."

The Organization presents an impressive history of its appropriate assignment to work on locomotive steps. On the other hand, the Carrier contends that, "The removal of steps in connection with repairing wreck damage has always been done by the boilermakers."

Among the many Agreements at issue here is the May 1, 1979 Memorandum of Understanding caused by the discontinuance of welding pools. This Memorandum lists various tasks and the crafts to be assigned thereto. The Carrier notes that on these lists are "Wreck Damage (excluding locomotive frames)" and "Steps," both shown as assigned to Boilermakers. The Organization, on the other hand, contends this Memorandum was intended to cover welding only.

The Organization cannot be faulted in its argument as to the past performance of work on locomotive steps. Here, however, the Carrier raised a substantial point as to the use of Boilermakers in connection with wrecked locomotives.

This would be a dispute properly for resolution by a Joint Jurisdictional Committee established under the Organizations' Agreements, although it is understood that this Committee has not been operative. In these circumstances, the Board is technically without authority to resolve the exact circumstances, if any, which may have made this particular assignment appropriate to other than Machinists.

AWARD

Claim dismissed.

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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 1st day of November 1995.