

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 13011
Docket No. 12882
96-2-94-2-26

The Second Division consisted of the regular members and in addition Referee Marty E. Zusman when award was rendered.

(The International Association Machinists
& Aerospace Workers, A.F.L. - C.I.O.)
PARTIES TO DISPUTE: (
(St. Louis Southwestern Railway Company

STATEMENT OF CLAIM:

"1. That the Southern Pacific Transportation Company, violated Rules 34-2, 43, and 100, but not limited thereto, of the controlling Agreement when it assigned train crew members to perform Machinist work including the inspecting and testing of mechanical equipment (engines, running gear, brakes, controls, etc.) on locomotives which were prepared for out-bound service from February 20, 1993, and continuing heretofore in the Carrier's Gravity Yard which is located adjacent to the Carrier's Locomotive Facility at Pine Bluff, Arkansas.

2. That in addition thereto, Southern Pacific Lines continued said violations on locomotives being prepared for out-bound service at the Carrier's Gravity Yard located at Pine Bluff, Arkansas, subsequent to February 20, 1993.

3. That accordingly, Southern Pacific Lines be ordered to pay Machinists, D. L. Yaney, S. F. Gurnsey and C. Brazell, eight (8) hours each at the straight time rate of pay (5) days per week retroactive to February 20, 1993, and continue such compensation until the Carrier properly assigns the disputed work to members of the Machinists Craft at Pine Bluff, Arkansas. Also, that Southern Pacific Lines be ordered to pay Machinists A. L. Bradley, R. N. Ryan and A. S. Robinson eight (8) hours each at the straight time rate of pay two (2) days per week retroactive to February 20, 1993, and continue such compensation until the Carrier properly assigns the disputed work to members of the Machinists Craft at Pine Bluff, Arkansas."

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.

The Organization initiated its claim by letter of April 20, 1993 asserting that train crews in the Pine Bluff Gravity Yard were being assigned Machinist work. It noted that the train crews on run-through trains were performing daily inspections including the completion of the cab card (Form C.S. 7054) and inspectors report (Form C.S. 2326). The Organization argues that for thirty years Machinists performed general inspection with other crafts performing only a limited inspection of their specific work. The Organization maintains that only Machinists at Pine Bluff are exclusively assigned the work of performing trip inspections.

In studying the on-property record the Board notes a Carrier denial in all respects. The Carrier argues that the work complained of has been performed for several years and at other locations by train crews. The Carrier states that when crews inspect their own trains, which are being run-through the yard rather than coming into the Roundhouse Facility, it does not fall within the work of the Mechanical Department. The Carrier adds that the type of inspection performed has been performed by Engineers under their Rule 618, Electricians, Supervisors and Carrier Officers.

The Organization's argument is based upon Rule 43, the Classification of Work Rule which states that "engine inspecting" is work of the Machinists Craft. Under Rule 34, only Machinists may do Machinists work. In this case, the Organization must demonstrate that the work performed was work of "engine inspecting" protected under Rule 43 or assigned exclusively to Machinists. The Board finds the proof lacking in sufficiency. There is no proof provided by the Organization as to the exact nature of the work performed or to exclusivity on run-through trains. Employee statements do not clearly address the nature of the work performed or provide a specific rebuttal to the facts of this case.

The Board has focused its attention on the central element of this case, inspections on run-through trains. The facts at bar are not compatible with Second Division Award 12120 which the Organization points to as dispositive of this claim. In that Award, the Organization met its burden of proof by detailing the exact nature of the work and documenting system-wide exclusivity. In Award 12120 the daily inspecting and testing of locomotives being prepared for out-bound service was found to be exclusively assigned by historical practice. In this instant case, the only similarity to Award 12120 is the statement of claim before this Board which includes specified work never discussed on property. Award 12120 does not refer to run-through trains. The record in this case includes a Carrier rebuttal statement from the Plant Manager that "the practice has always been for the engine crews to do a daily inspection on their power when needed on the run-through trains." No evidence provided by the Organization establishes otherwise. Accordingly, the claim must fail for lack of proof.

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 10th day of July 1996.