

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13247
Docket No. 13185-T
98-2-96-2-88

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

PARTIES TO DISPUTE: (Brotherhood Railway Carmen, Division of
(Transportation Communications International Union
(CSX Transportation, Inc. (former Chesapeake and
(Ohio Railway Company)

STATEMENT OF CLAIM:

“Claim of the Committee of the Union that:

1. That the Chesapeake and Ohio Railroad Company (CSX Transportation, Inc., (hereinafter referred to as ‘carrier’) violated the controlling Shop Crafts Agreement specifically Rule 154 (a) and (b), when the carrier assigned other than carmen painters to perform work exclusively reserved to the carmen painters craft.
2. Accordingly, the carrier be instructed to pay carman W. E. Love, Jr., ID #188769 (Hereinafter referred to as ‘claimant’) eight hours at the applicable carman overtime rate 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 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.

As Third Party in Interest, the International Association of Machinists and Aerospace Workers was advised of the pendency of this dispute, but it chose not to file a Submission with the Board.

This is another case whose focus is primarily upon Classification of Work Rule 154 and the Carrier's application of the Incidental Work Rule. By reference here, the Board incorporates its discussion of Article V of the Incidental Work Rule in Second Division Award 13244.

This claim arose because the Carrier assigned a Machinist to paint three lockers in the Truck Shop at its Huntington Locomotive Shop. The Carrier asserts that the actual painting took two hours or less and was a "simple task" as contemplated by the Incidental Work Rule.

The Organization contends that the disputed work properly belongs to its craft pursuant to Rule 154 and that Carmen Painters have historically painted lockers at the Huntington Locomotive Shop.

The Board finds that the disputed work is properly that of the Carmen Painter craft. Nonetheless, we do not find sufficient evidence to establish the actual time that it took to paint the three lockers. Because there is an irreconcilable conflict in the record established on the property as to this key data, we must dismiss the claim.

AWARD

Claim dismissed.

Form 1
Page 3

Award No. 13247
Docket No. 13185-T
98-2-96-2-88

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 30th day of March 1998.