

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

**Award No. 13414
Docket No. 13227-T
99-2-96-2-139**

The Second Division consisted of the regular members and in addition Referee Margo R. Newman when award was rendered.

**(Brotherhood Railway Carmen, Division of
(Transportation Communications International Union**
PARTIES TO DISPUTE: (
(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 boilermakers to perform work exclusively reserved to the carman craft.**
- 2. Accordingly, the Carrier be instructed to pay carman D. R. Smith Jr., ID #623204, (hereinafter referred to as ‘claimant’) four hours at the applicable carman straight time 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 Brotherhood of Boilermakers and Blacksmiths was advised of the pendency of this dispute, but it chose not to file a Submission with the Board.

This claim protests the Carrier's November 18, 1995 assignment of Boilermaker S. W. Mathews to remove and replace the cab awning on Locomotive 8028 at the Huntington Locomotive Shop. An oxygen/acetylene torch outfit and an electric arc welder were used to perform this task. Although there is a minor dispute about the amount of time required to perform this task, the Board finds persuasive the evidence of the Supervisor that it took the Boilermaker one hour and 40 minutes to accomplish this work assignment.

The Organization argues that such work is reserved to its craft under the language of Rule 154 (a) that defines Carmens' work to include "... oxy-acetylene, thermit and electric welding on work generally recognized as carmen's work ...", and (b) which states "... that present practice in the performance of work between the carmen and the boilermakers will continue." The Organization asserts that Carmen have historically performed the task of welding and removing and repairing all locomotive cab awnings at the Huntington Locomotive Shop. It contends that the Carrier may not rely upon the Incidental Work Rule in this case because it has been held that welding work of this type is not a simple task and requires specialized tools and training, relying upon Public Law Board No. 5479, Award 8.

The Carrier contends that this job assignment was permissible under the Incidental Work Rule because welding of the sort involved in this case is a simple task that took less than two hours to perform. It observes that welding work of this type is not reserved to Carmen or performed with tools that are unique to Carmen, and is within the capabilities of the Boilermaker as well as other Shop Craft personnel, and cites Second Division Award 12980 and Public Law Board No. 5479, Awards 2, 3, 5, 6, 7 and 12 in support of its position that the claim should be denied. The Carrier argues before the Board that the Awards relied upon by the Organization should not be followed because they do not take into account facts revealing that the performance of welding work on this property is a simple task.

A review of the record reveals that, even if welding is performed by other crafts in conjunction with their traditional work, the Carrier did not rebut the Organization's assertion that Carmen at this facility have historically been assigned to, and have performed the welding involved with removing, repairing and replacing all locomotive cab awnings. Thus, the Organization sustained its burden of proving that the disputed work is properly reserved to the Carman craft.

With respect to the primary issue of whether this type of welding is considered a simple task that may be assigned outside the craft for a period of less than two hours under the Incidental Work Rule, the Board carefully reviewed the arguments of the parties as well as the cited precedent. The background of the Incidental Work Rule and the definition of a simple task thereunder is set forth fully in Second Division Award 13244, an on-property Award between these parties. It includes the concept that the task must be uncomplicated, capable of being easily and efficiently performed by other crafts, and not require the use of special tools or special training.

In Second Division Award 13244, the Board found the following reasoning of Public Law Board No. 5479, Award 8 to be applicable.

"... Welding is work that most certainly requires special training and special tools. It is not a simple task. And while Carmen, and for that matter other Crafts, as well as Machinists may perform welding in the particular work of their own Crafts, this fact is not license or privilege for a Carrier to have them do welding work in a different Craft under the revised Incidental Work Rule. If it were, for example, any Shop Craft employee capable of performing a specialized function applicable to the work of more than one Craft, such as welding, could be used as a 'composite mechanic' in all Crafts, something objected to by the Organization before PEB 219, something that PEB 219 did not embrace, and something that was not specifically provided in the Imposed Agreement."

In Second Division Award 13246 the Board went on to note that:

"... our holding here is given further substance in that the Carrier, in a letter to 'all Carmen' stated in pertinent part 'This is to remind and

inform you that if you have not attended welding school you cannot work or bid a position in the shop.”

The same evidence is contained in the record in this case, and we find the above-quoted rationale to be equally applicable herein.

We are of the opinion that the Board took into account the facts existing at the Huntington Locomotive Shop with respect to the practice of welding in rendering these Awards. Its finding that such task as it relates to work reserved to Carmen, cannot be considered a simple task under the Incidental Work Rule is supported by the instant record, is not palpably erroneous, and is binding upon the Board and these parties. See also Second Division Award 13250.

Accordingly, the Carrier violated Rule 154 in making the welding assignment in issue. Because the record reflects that such assignment took one hour and 40 minutes to complete on November 18, 1995, we direct that the Claimant be compensated one hour and 40 minutes at his straight time rate of pay, which reflects his lost work opportunity on this occasion.

AWARD

Claim sustained in accordance with the Findings.

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ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division**

Dated at Chicago, Illinois, this 16th day of June 1999.