

Award No. 2137
Docket No. 1995
2-DS-TWUOA, CIO

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

TRANSPORT WORKERS UNION OF AMERICA, CIO
(Railroad Division)

THE DONORA SOUTHERN RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES: That it is in violation of the current agreement Carmen perform the work that belongs to Machinists.

That Mr. Carl McIntosh be reimbursed for time lost by him when employes of another craft perform work belonging to the Machinist craft.

That Mr. Carl McIntosh be compensated four (4) hours for work done by Carmen when it should have been done by Machinists.

EMPLOYES' STATEMENT OF FACTS: That Mr. Carl McIntosh is a diesel mechanic. That he was available for the work that was done by carmen. That there is a contract on this road which gives the work of maintaining diesels to diesel mechanic.

That the Railroad Division, Transport Workers Union of America, C.I.O., has a collective bargaining agreement, effective August 29, 1949 with the Donora Southern Railroad Company, covering machinists, blacksmiths, boiler-makers, carmen, maintenance of way employes and their helpers and common laborers, copies of which are on file with the Board, and is by reference hereto made a part of this statement of facts.

POSITION OF EMPLOYES: It is respectfully submitted that the work of diesel mechanics (machinists) is the work which must accrue to employes having seniority rights in such class.

Article 10—paragraph (b) states as follows:

“(b) No employe can hold seniority rights in more than one occupation at the same time, employe bidding from one occupation to another will lose his seniority in the occupation in which he held seniority and seniority in the occupation which he bid will begin as of the first date service is performed in such occupation.”

POSITION OF CARRIER: Since jacking was deemed necessary and in fact was performed, car shop employes were used to perform the rerailing under Article 34½ quoted above. Slipping the wedge back into position was an essential part of the "rerailing" covered by Article 34½, rather than "maintenance work" referred to in Article 10(b). It was therefore properly performed by a member of the car shop wrecking crew under Article 34½, as well as in accordance with recognized and established past practice.

In addition, we believe this claim is controlled by the principle established by this Division in its Award No. 1546.

For the foregoing reasons it is respectfully submitted that this claim must be denied.

FINDINGS: The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe 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.

The parties to said dispute were given due notice of hearing thereon.

The claim here made is based on the contention that carrier used carmen to perform work belonging to machinists. The claim, made in behalf of diesel mechanic Carl McIntosh, is based on Article 10(b) of the parties effective agreement which relates to seniority, and 10(d) thereof which relates to maintenance work on Diesel locomotives.

The work involved was the replacing of a journal bearing wedge on a Diesel locomotive while it was being rerailed on carrier's property at Donora, Pennsylvania. Because jacking was necessary the rerailing was done by a wrecking crew consisting of carmen. The journal bearing wedge had been knocked out of position when the engine was derailed. Carrier claims the right to have carmen do it by reason of the provision of Article 36 of the parties' effective agreement which specifically relates to rerailing equipment.

When jacking is deemed necessary to rerail equipment, and car shop employes are used for that purpose as Rule 36 provides they will be, such employes may do all things incident to what is reasonably necessary to properly rerail such equipment. In view thereof we think, because of the nature of what was here done and when it was performed, that it comes more nearly within the work covered by Rule 36 than under Rule 10(d). In view thereof we find the claim made to be without merit.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 19th day of June, 1956.