

**Award No. 2317
Docket No. 2195
2-AT&SF-SM-'56**

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:

**SYSTEM FEDERATION NO. 97, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (Sheet Metal Workers)**

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES: 1. That the assignment of other than employes of the Sheet Metal Workers' Craft to perform their work such as removing and installing metal rain gutters and down spouts on shop buildings in the yards at Topeka, Kansas, on certain dates beginning with February 8 and ending on April 7, 1954, was improper under the current agreement, and which thereby damaged the employes of said craft.

2. That accordingly the Carrier be ordered to:

a) Additionally compensate Sheet Metal Workers A. J. Artzer, N. Blocher and H. A. Fry, at the applicable rates of pay on the basis of distributing equally among them the number of hours that such other employes performed the aforesaid work.

b) Additionally compensate Sheet Metal Worker Helper, W. D. Kendall at his applicable rates of pay for the number of hours that such other improper Helper devoted to helping perform the aforesaid work.

EMPLOYEES' STATEMENT OF FACTS: The Atchison, Topeka and Santa Fe Railway Company, hereinafter called the carrier, was maintaining at its Topeka, Kansas, shops during the period of this claim, beginning at least on February 8 and continuing through April 7, 1954, a force of approximately 44 sheet metal workers, their apprentices and helpers, including regular hours of assignment from 8:00 A. M. to 5:00 P. M. (the lunch period being one hour), Mondays through Fridays, with rest days Saturdays and Sundays. These working hours, working days and rest days apply to Sheet Metal Workers E. J. Artzer, N. Blocher, H. A. Fry and Sheet Metal Worker Helper W. D. Kendall, hereinafter referred to as the claimants.

The carrier made the unilateral election to augment the aforesaid sheet metal workers' force by the assignment of three mechanics and one helper from the maintenance of way department force, whose working hours were 8:00 A. M. to 4:30 P. M. (the lunch period being thirty minutes), to begin working eight hours per day each on February 8, 9, 10, 11, 15, April 6 and 7, 1954, at installing galvanized rain gutter and downspouting to shops and buildings within the Topeka Yards.

this work was done by bridge and building forces covered by the Brotherhood of Maintenance of Way Agreement at Topeka Shop, dating back as far as November, 1945:

"Description of Structure	Nature of Work Performed	Date Performed
West Planing Mill Machine Shop	Repairing downspouts. Repair flashing & guttering.	11-14-1945. 8-9, 10, 11, 12, 13, 1948.
Power House, Bldg. 144 Coach Shops	Place guttering. Repair Guttering & downspouts.	12-4, 11, 12, 1950. 4-2, 1952.
Power House	Assist tanners repair guttering.	4-30, 1953.
Power House	Assist tanners repair guttering.	5-1, 1953."

Clearly, in the light of the foregoing facts there is absolutely no basis for the claim of the Sheet Metal Workers' International Association that the work in dispute belongs to employees represented by it, either by rule or practice. The matter is one that obviously should be worked out between the contesting organizations, as to meet the request of the sheet metal workers' organization would obviously bring about claims from the Brotherhood of Maintenance of Way Organization, at least by reason of a long and unprotested practice of handling over the entire system.

The carrier reserves the right to submit such additional facts, evidence and arguments as it may conclude are required in replying to the organization's ex parte submission or any subsequent oral arguments or briefs placed by the organization in this dispute.

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 organization contends carrier has improperly used employes, other than sheet metal workers, to perform work such as removing and installing metal rain gutters and downspouts on shop buildings in its yards at Topeka, Kansas on certain dates therein set forth. In view thereof it asks that three (3) named sheet metal workers and one (1) sheet metal worker helper be compensated at their applicable rate for the number of hours such other employes spent performing this work.

On February 8, 9, 10, 15 and April 6 and 7, 1954 carrier used three (3) mechanics and one (1) helper, B&E employes, from its Maintenance of Way Department force at removing the old and then installing some new galvanized rain gutters and downspouting to shops and buildings within the Topeka Yards; namely, on the blacksmith shop and main power house. Shop forces had fabricated any new pieces that were used.

The record discloses that in the past no one class or craft of employes on this carrier has exclusively performed work such as removing and install-

ing metal rain gutters and downspouts on shops and buildings. Sometimes sheet metal workers have been used to do it but more often it has been performed by employes represented by the Brotherhood of Maintenance of Way Employes, particularly B&B employes.

The same questions herein raised were presented in Docket 2194 on which our Award 2316 is based. Since this claim involves the same parties as were involved in Docket 2194 there would be no purpose in restating what was said and held in Award 2316. In view of our holding therein we find the claim here 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 November, 1956.