

Award No. 2542
Docket No. 2218
2-NPTCO-SMW-'57

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 105, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (Sheet Metal Workers)**

THE NORTHERN PACIFIC TERMINAL COMPANY OF OREGON

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current agreement the Carrier improperly assigned other than Sheet Metal Workers to relocate a door and window in the east wall and relocate a spray room partition, which is of sheet metal construction in the Paint Shop at Guilds Lake, on or about February 1, 1953.

2. That accordingly the Carrier be ordered to:

a) Discontinue the use of other than Sheet Metal Workers to perform this work.

b) Compensate Sheet Metal Workers Frank R. Paola, John Harney, Wm. H. Marshall in the amount of 16 hours pay, and Sheet Metal Workers Clifford L. Humphrey, Wm. H. Lewis and Alfred S. Smith for 8 hours each at their respective rates of pay.

EMPLOYEES' STATEMENT OF FACTS: On or about the first of February, 1953, the carrier started work of relocating a door and window in the east wall of paint shop at Guilds Lake and relocating spray room partition, which is of sheet metal construction, and over the protest of local committee employees of the Maintenance of Way Department were assigned.

This dispute has been handled with the carrier up to and including the highest officer so designated by the company, with the result that he has declined to adjust it.

The Union Pacific agreement effective September 1, 1949 is controlling.

POSITION OF EMPLOYEES: It is submitted that the action of the carrier in this dispute is contrary to the provisions of the rules of current agreement when Maintenance of Way employees were assigned to work that

"We are not unmindful that it would be possible to divide many craft operations into their component elements, to then say that certain of those elements are purely manual or unskilled in nature, and that unskilled employes should therefore be assigned to perform such tasks. We do not deny that such a procedure could be used to dilute the work jurisdiction of skilled employes, and to violate an existing scope rule.

"We do not think the incident here disputed is an example of the above-described procedure, however, nor are we of the opinion that a denial award in this case would support the doctrine which the petitioner apparently fears. In our judgment, the contention that carrier violated the pertinent scope rules by assigning a laborer to hold the rope is to place a strained construction upon said rules.

"Claim denied."

Some interesting and pertinent observations were made in Third Division Award No. 4512 (and quoted in Award 4879), a case where the B & B men were the claimants. The majority with Referee Kelliher stated in part:

"While B & B employes have always fitted and installed doors and windows, when needed in connection with the repair and maintenance of Carrier's buildings, it appears that prior to the mill room being equipped for the construction thereof the Carrier usually and customarily purchased prefabricated doors and windows in the open market and delivered them to the B & B employes in that condition for the purpose of fitting and installing. No objection is made to that practice. After the installation of the equipment in the mill the fabrication or construction thereof was usually performed therein on orders from the Store Department. In either event the Scope of the Brotherhood's Agreement does not extend to the fabrication thereof but only to the fitting and installation, after they are delivered for that purpose."

There can be no doubt about the proper use of the B & B men to perform the work here in dispute, and that the sheet metal workers have no valid claim whatsoever to same.

CONCLUSION:

It has been clearly and definitely shown by the carrier that, first, this case should be dismissed unless the B & B men are duly and properly notified by this Division of the pendency of this dispute; and second, if not so dismissed, the claims should be denied account not supported by agreement rules, past practice, or Adjustment Board awards.

The carrier earnestly and respectfully so requests.

FINDINGS: The Second Division of the Adjustment Board, upon the whole record and all the evidence, find 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 in this dispute is identical with the claim in Docket No. 2217. In the instant case the building erected was a 36 x 20 foot paint shop. We

will dismiss this claim for the same reasons as stated in Docket No. 2217.
(Award 2541).

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 8th day of July, 1957.