

Award No. 2747
Docket No. 2593
2-CUT-SMW-'58

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

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

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 150, RAILWAY EMPLOYEES'
DEPARTMENT AFL-CIO (Sheet Metal Workers)

THE CINCINNATI UNION TERMINAL COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current agreement the Carrier improperly assigned other than Sheet Metal Worker employes to perform the work of repairing, reflare pipe joints, disconnecting and connecting of pipe connections and repairing of leaks in pipes on water cooler for PRR Coach 4003 on February 13, 1956.

2. That accordingly the Carrier be ordered to compensate Sheet Metal Worker T. Otte and Sheet Metal Worker Helper J. Williams each in the amount of eight (8) hours pay at the applicable overtime rate for February 13, 1956.

EMPLOYEES' STATEMENT OF FACTS: The carrier maintains a force of seventeen (17) sheet metal workers employed on the first shift shown on the force statement, with working hours 7:00 A.M. to 3:00 P.M. with twenty minutes for lunch. This includes five (5) regular relief assignments with five days of work and two consecutive rest days to do work on rest days, all of which are seven day assignments.

The carrier assigned electricians to reflare pipe joints, disconnect and connect pipes and pipe connections and repair leaks in pipes on water cooler for PRR Coach 4003, February 13, 1956.

Sheet Metal Worker T. Otte and Sheet Metal Worker Helper J. Williams, hereinafter referred to as the claimants, were available to perform this work if called on their rest days.

The agreement revised and signed September 1, 1949, is controlling.

POSITION OF EMPLOYEES: It is submitted that under letters of February 28, 1940 and April 16, 1940, the parties agreed on procedure to deal with questions of work that may be in dispute; copies of these letters are submitted herewith and identified as Exhibits A and B.

System Federation No. 150 or the organization involved in this dispute never did complete negotiations of this dispute with the carrier, as set forth in the February 28, 1940 Jurisdictional Agreement. In fact the federation refused to reply to questions raised by the carrier. Is a carrier obligated to accept and apply a jurisdictional issue which was settled between two crafts without any negotiations as to how the two craft settlement will be applied? The answer is absolutely "No". This carrier or any other carrier has the right to accept or reject a jurisdictional issue settled between two crafts. To make a jurisdictional issue effective it must be a tripartite agreement.

The Jurisdictional Disputes Agreement of February 28, 1940 states after the two crafts settle an issue, the federation must negotiate with management for acceptance by management. The transfer of work from one craft to another craft can only be done by negotiation and by agreement and the two organizations and management must be in unanimous agreement.

The carrier respectfully requests the Second Division to dismiss this claim as this is an unsettled jurisdictional dispute and not a proper time claim. The sheet metal workers have the necessary machinery to handle under the jurisdictional Disputes Agreement to which they are a party and not request your Honorable Board to settle a jurisdictional question which they themselves have agreed to settle under the 1940 agreement.

The Agreement between The Cincinnati Union Terminal Company and System Federation No. 150 was open and amended July 15, 1945 and was again open and amended September 1, 1949 and there was no mention of changing the present method of repairing electric water coolers in passenger cars.

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 employees 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 confronting dispute involves the alleged improper performance of work by electrical workers of work belonging to the craft here involved. The record indicates that these two crafts, namely, the electricians and sheet metal workers, have entered into an agreement for the settlement of jurisdictional disputes. There is further evidence in the record that this agreement was confirmed by correspondence between the two crafts involved. As to the procedure to be followed in settling jurisdictional differences, the following understanding was arrived at:

"In the event of any disagreement between two or more crafts as to the proper application of the above rule, then the craft performing the work at the time of the change of the process or tool shall continue to do the work until the organizations involved have settled the dispute and the System Federation signatory hereto has presented such settlement to management, requested a conference and negotiated an agreement for acceptance of such settlement by management."

Pursuant to the above understanding an agreed to settlement of the issues here involved was submitted to the carrier by the Secretary-Treasurer of System Federation No. 150 on September 14, 1956, with the following request:

"Will you please advise if this agreement meets with your approval?"

It is here noted that no conference has ever been requested by the System Federation involved, in accordance with the requirements of the above understanding, nor have any negotiations been conducted between the parties with management leading to the acceptance of such understanding.

It being evident that the employees here involved have recognized the so-called jurisdictional dispute agreement as having application to the confronting dispute, the agreement must be followed to the end that all the procedures are exhausted before pursuing a different cause of action. We are of the opinion, and so hold that this case is prematurely presented to this Board.

AWARD

Remanded to the parties for further handling in accordance with the provisions of the jurisdictional dispute agreement.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 20th day of February, 1958.