

Award No. 3527
Docket No. 3435
2-GM&O-SM-'60

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 29, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. - C. I. O. (Sheet Metal Workers)**

**GULF, MOBILE AND OHIO RAILROAD COMPANY
(Southern Region)**

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current Agreement other than Sheet Metal Workers were improperly used to perform work of installing and assembling all pipe and fittings on pipe lines for Fuel Oil and Water running between Fuel Tank and Fueling facilities at Locomotive Track and Water Lines running from Water Tank to watering facilities at Locomotive Track at Tamms, Illinois.

2. That accordingly the Carrier be ordered to additionally compensate the hereinafter named employes for three days' pay each at eight (8) hours per day applicable pro rata rate of pay for December 4, 5 and 6, 1957. Their classification and their names follow:

E. W. Nichols.....Sheet Metal Worker
H. L. Moore.....Sheet Metal Worker

EMPLOYEES' STATEMENT OF FACTS: The Gulf, Mobile and Ohio Railroad Co., hereinafter referred to as the carrier, on December 4, 5 and 6, 1957 assigned a machinist and helper, maintenance of way foreman and two section laborers and one shop laborer employed at Tamms, Illinois to perform the following work at Tamms:

1. Install approximately 450 feet of 2 inch black iron pipe between the siding used for unloading tank cars and the fuel oil storage tanks and between the fuel oil storage tanks and the locomotive fueling platform including the necessary cutting, threading and fitting of the pipe and installation of necessary globe and gate valves.

2. Install approximately 150 feet of 2 inch galvanized water pipe from the shop main water line provided by the City of Tamms to the watering station for locomotives, including the necessary cutting, threading and fitting of the pipe and installation of necessary globe and gate valves.

Carrier contends that Article VII of the August 21, 1954 agreement which became effective on this property as of November 1, 1954, superseded those parts of Rules Nos. 33 and 413 that dealt with work at "outlying points" and practices thereunder, and is the only provisions of the applicable agreement which relates to performance of work at Tamms and similar points by other than a mechanic of the craft whose classification of work rule covers it.

Carrier further contends that the aforesaid rule which became effective November 1, 1954 clearly permitted the machinist employed at Tamms to perform the sheet metal work that is here involved.

Carrier asserts that, for the reasons given hereinbefore, the instant claim is without merit and should be denied, and prays this honorable Division to so decide.

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.

At Tamms, Illinois, a small division shop point where sheet metal workers had never been employed, a machinist and helper were used to perform some twelve hours of essentially sheet metal workers' work in the installation of a fuel and water line, where work is here asserted rightfully to belong to claimant sheet metal worker and helper employed at Jackson, Tennessee, some 126 miles distant from Tamms.

The employes rely on Rule 413 of their agreement effective January, 1941 reading:

"Sheet metal workers will be sent out on line of road and to outlying points, when their services are required, but not for small, unimportant running-repair jobs."

Carrier relies on Article VII of the Agreement of August 21, 1954 reading:

"At points where there is not sufficient work to justify employing a mechanic of each craft the mechanic or mechanics employed at such points will, so far as they are capable of doing so, perform the work of any craft that it may be necessary to have performed."

The employes assert that Rule 413, being a special rule must prevail over Article VII which is a general rule. If they were of equal date that might be true, but Article VII is a subsequent rule so would prevail over a prior rule.

It is urged that Article VII is restricted in its application to outlying points and to running repairs, but it is not so limited in its plain wording.

It is asserted further that practice at Tamms supports the claim, but the relied on work which sheet metal workers were there called to perform may well have been, as carrier asserts, work which the mechanics employed at that point were not capable of doing, hence was in accord with Article VII.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 29th day of July, 1960.

DISSENT OF LABOR MEMBERS TO AWARD NO. 3527

Award No. 3527 is erroneous for the following reasons:

Sheet Metal Workers Special Rule No. 413 of the current agreement was not modified by Article VII of the August 21, 1954 Agreement—said Article VII was accepted by the carrier in lieu of that part of General Rule No. 33 reading as follows:

“ * * * At outlying points (to be mutually agreed upon) where there is not sufficient work to justify employing a mechanic of each craft, the mechanics employed at such points will, so far as capable, perform the work of any craft that may be necessary.”

Sheet Metal Workers Special Rule No. 413 remains in full force and effect and provides that—

“Sheet Metal Workers will be sent out on line of road and to outlying points when their services are required.”

This Division has no authority to disregard any rule of the agreement which is clear and unambiguous as to its intent and meaning.

Therefore we dissent.

Edward W. Wiesner
R. W. Blake
T. E. Losey
Charles E. Goodlin
James B. Zink