

Award No. 3655

Docket No. 3263

2-SOU-SM-'61

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Lloyd H. Bailer when the award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 21, RAILWAY EMPLOYEES' DEPARTMENT, A. F. of L.-C. I. O. (Sheet Metal Workers)

SOUTHERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That the Carrier has violated the provisions of the controlling agreement by abolishing by bulletin on March 27, 1957, a combination pipefitter and tinner position in the freight car department, John Sevier Yards, Knoxville, Tennessee, and subsequently thereto continued to perform the work by the assignment of other Sheet Metal Workers.

2. That Sheet Metal Worker H. E. Hutton, Knoxville, Tennessee, the regular assigned occupant of the position, prior to and on the date the position was abolished, be restored to his former position as combination pipefitter and tinner in John Sevier Yards, freight car department, and such other work as may be assigned to him in his craft.

EMPLOYEES' STATEMENT OF FACTS: Prior to March 27, 1957, Sheet Metal Worker H. E. Hutton, hereinafter referred to as the claimant, held a bid in combination pipefitter and tinner position in the John Sevier Yards Freight Car Department of the Southern Railway Co., hereinafter referred to as the carrier, at Knoxville, Tenn.

On March 27, 1957 the carrier by bulletin, No. 369, dated March 23, 1957, abolished the claimant's position in the Freight Car Department. Claimant then exercised his seniority under the provisions of Memorandum of Agreement effective May 20, 1926 as revised effective Nov. 1, 1949, placing himself on a position in the John Sevier Diesel Shop.

Subsequent to March 27, 1957 the carrier has consistently assigned junior sheet metal workers employed in its John Sevier Diesel Shop to perform sheet

Mr. Hutton is privileged to stop whatever job he is doing, no matter how important it is, and be permitted to perform the referred to work. Such a contention is not only contrary to the agreement, but is opposed to all rules of sound reasoning and logic. Mr. Hutton, as sheet metal worker, is employed to perform work of the sheet metal workers' class or craft. He is to perform that work as directed by the management. He had no contract right to select the particular jobs which he is to perform regardless of carrier's needs, yet that is precisely what he contends he is privileged to do and the Sheet Metal Workers' International Association supports him in making such absurd contention.

Carrier recognizes that, under the penultimate paragraph of Rule 26 of the agreement in evidence, should the so-called caboose job be re-established, Mr. Hutton would be privileged to take it if he elected to do so. Carrier denies, though, that Mr. Hutton has any contract right to perform, at his election, such work as is necessary to be performed from time to time in the freight yard. However, if Mr. Hutton is not otherwise engaged at the time work is necessary to be performed in the freight yard, he is utilized in performing the work on the same basis as other pipefitters employed at Sevier Yard, but he has no contract right to be given preference to such work as he here contends.

While it is the function of the Adjustment Board to interpret the agreement in evidence, the Board has no authority to do what is here demanded, i.e., restore the so-called caboose job abolished on March 27, 1957, and reassign Mr. Hutton to that position.

There not having been any violation of the agreement in evidence and there being no basis for the demand here made, the Board is left with no alternative but to make a denial award.

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.

Parties to said dispute were given due notice of hearing thereon.

For a number of years Claimant Hutton had occupied a combination pipefitter-tinner position in the freight yard at John Sevier Shop, Knoxville, which is a running repair point. Claimant is the senior employe in the sheet metal worker craft at the shop. The volume of work in Claimant's position having declined to the extent that it became substantially less than a full-time job, the Carrier abolished the position on March 27, 1957 and Claimant exercised his seniority to occupy a pipefitter position in the roundhouse (diesel shop) at this location. Such pipefitter-tinner work as continued to arise in the freight yard thereafter was assigned to various pipefitters holding positions in the roundhouse, including the Claimant.

It is contended in Claimant's behalf that he has a prior right to continue performing all of the work of a character that he formerly performed in the freight yard. It is conceded, however, that he may be assigned pipefitter

duties in the roundhouse when he is not occupied with work in the yard. The Carrier replies that Claimant Hutton does not have a demand right to perform all of the work of his previous position, regardless of whether he may be engaged at the time in performing assigned work in the roundhouse.

Since the work of Claimant Hutton's previous position had declined to substantially less than a full time job, the Carrier acted within its rights in abolishing it as a separate position. In view of the Claimant's prior occupancy of that position it is entirely understandable that he should want to continue performing such pipefitter-tinner work as continues to arise in the yard.

As we understand the Carrier's position in this case, it is willing to permit Claimant Hutton to continue performing the involved work when he can be spared from his present roundhouse duties. However, we do not think the Claimant has a demand right to stop whatever assigned duty he may be performing in the roundhouse whenever pipefitter-tinner work occurs in the yard, in order that he may be able to handle all of such work. To uphold the Claimant's contention in this respect would represent interference with the Carrier's conduct of its operations to an extent that is not supported by the agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 30th day of January 1961.

LABOR MEMBERS DISSENT TO AWARD NO. 3655

The evidence shows that subsequent to the abolition of the instant combination position other employes junior to the complainant were used to perform the same amount of work which had been assigned to claimant prior to the instant abolition of said position.

Therefor the majority erred in making the award.

Edward W. Wiesner

R. W. Blake

Charles E. Goodlin

T. E. Losey

James B. Zink