

Award No. 3918

Docket No. 3713

2-IC-SM-'62

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 99, RAILWAY EMPLOYES'
DEPARTMENT, A. F. L. - C. I. O. (Sheet Metal Workers)**

ILLINOIS CENTRAL RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES: 1. That, contrary to the provisions of Classification of Work Rule No. 108 of the controlling agreement, the Illinois Central Railroad Management assigned other than Sheet Metal Workers the work of removing the following pipes from Engine No. 9101, at the Markham Locomotive Shop, Chicago, Illinois.

Pipe from right and left water pump to cooler.
Left and right water seal pipe from pump to liner manifold.
Air pipe and water cross over pipes.
Oil pipe from oil cooler to strainer housing.
Oil pipe from lube oil pump to strainer housing.
Oil pipe from scavenger pump to strainer housing.
Oil pipe from michiana to scavenger pump.
Oil pipe from lube oil pump to gear train.
Oil pipe from top of gear train to oil cooler.
Oil pipe from governor to strainer housing.
Oil pipe from governor to gear train.
Oil pipe from governor to lube oil gauge.
Oil pipe from governor to load regulator.

2. That, the Carrier be ordered to discontinue this practice.

3. That, the Carrier be ordered to compensate Sheet Metal Worker, Gerald A. Corwin, six (6) hours' pay at the time and one-half rate of pay for February 3, 1959.

EMPLOYEES' STATEMENT OF FACTS: The Illinois Central Railroad Co., hereinafter referred to as the carrier, maintains at Chicago, Illinois, a Maintenance of Equipment Repair Shop known as Markham Locomotive Shop, whereat sheet metal workers are regularly employed and assigned around the clock seven days per week.

workers may . . . connect and disconnect pipes, where no repairs are necessary to the . . . pipes in question.'

This division finds that although there was 'a damaged signal pipeline hose,' that the replacement of it with a good one was 'running repairs' to the locomotive rather than 'repairs . . . necessary to the pipes in question.'

See also Second Division Awards 2605, 2826, and 3080.

The carrier reiterates that the machinists, in the case before the Board, simply disconnected the pipe necessary to enable them to make running repairs to the accessory driver gear on Diesel Unit 9101. No repairs whatever were made on the pipe. Bernard, the only sheet metal worker on duty, was fully occupied with other running repair work and unavailable to disconnect the pipe in question, and there was no reason to call Claimant Corwin, or any other off duty employe, to disconnect pipe under the circumstances when the agreement expressly provides that it may be done by machinists in connection with their running repair work. To rule otherwise would have the effect of striking Rule 61 from the agreement, which the Board cannot do.

The claim is without merit and should be denied.

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 waived right of appearance at hearing thereon.

Rule 108 says among several things, that pipefitting on engines in shops is sheet metal workers' work, including "the bending, fitting, cutting, threading, brazing, connecting and disconnecting of air, water, gas, oil and steam pipes". Rule 33 says in effect that no one but sheet metal workers shall perform said services.

However, both of the above Rules are relatively general in nature, and, in accordance with an accepted principle of contract construction, must yield to a more specific rule when same is applicable and when same is to some extent in conflict with the more general rules.

Rule 61 is such a specific rule. It says that, when running repairs are being made, a machinist may connect and disconnect any coupling or pipe connection necessary to repair machinery and equipment.

The issue in this case then under Rule 61 becomes a three-fold one of fact: (1) Were the repairs made by the machinist on claim date to locomotive 9101 at Markham shop running repairs? (2) If so, did he then and there disconnect and connect pipe couplings or connections? (3) If so, was said work necessary to the removal and repair of the accessory drive gear or other engine parts?

As to the first of these questions of fact, petitioner fails to establish

in the record that the repairs here at issue were not running repairs. There is considerable disagreement as to the length of time involved in making the pipe disconnections, removals, and connection. But carrier's statement stands uncontroverted that the facilities of Markham shop are for the making of inspections and running repairs on diesel engines. The Division so finds.

As to the second question of fact, the record establishes that the machinist did disconnect and connect pipes on said locomotive and, further, did remove at least some of same (those disconnected at both ends) from their usually fixed positions. Petitioner contends that said removal goes beyond the literal language of Rule 61. But the Division is not persuaded that the act of removal does not needfully follow from the acts of dual disconnection.

Given the above findings, the third question of fact then becomes the crucial one: Were the disconnections, removals, and re-connections necessary to the running repairs that the machinist had to make? On this issue the Division notes petitioner himself states, on the second and fourth pages of the rebuttal, that the pipe removals were requisite to obtain access to, remove, and repair the accessory drive gear. With carrier also so contending, the Division has no alternative to concluding that the "necessity" requirement of Rule 61 was here factually fulfilled.

In the light of these findings the Division is compelled to rule that Rule 61 is applicable here and takes precedence over Rules 108 and 33. Further, the undisputed fact that a sheet metals worker started to work with the machinist and was removed by carrier to work on another assignment, leaving the machinist to perform the operations here at issue, may not be held controlling.

In the light of all the above, a denial decision is required.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 22nd day of January, 1962.