

Award No. 3973

Docket No. 3724

2-UP-BM-'62

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Howard A. Johnson when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 105, RAILWAY EMPLOYES'
DEPARTMENT, A. F. L.-C. I. O. (Boilermakers)**

UNION PACIFIC RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES:

I. That under the terms of the current agreement the Carrier improperly assigned work of the Boilermakers' Classification to Maintenance of Way forces, at Cheyenne, Wyoming, on or about July 1, 1958.

2. That accordingly the Union Pacific Railroad Company be ordered to compensate additionally employes of the Boilermakers' Craft at their applicable rate of pay, pro rata rate for the aforesaid violation as follows:

C. C. Acor	Boilermaker	8 hours
Thomas J. McGough	Boilermaker	8 hours
H. Fanning	Boilermaker-Wldr.	8 hours
C. G. Schaub	Boilermaker	24 hours
B. B. Birch	Boilermaker	24 hours
Bruce Hopkins	Boilermaker	8 hours
Tony Christopulus	Boilermaker-Hlpr.	16 hours
Edward A. Ross	Boilermaker	16 hours
R. Buzard	Boilermaker	16 hours

128 hours

EMPLOYEES STATEMENT OF FACTS: At Cheyenne, Wyoming, the Union Pacific Railroad hereinafter referred to as the carrier, employes a force of boilermakers, helpers, and apprentices, in their General Repair Shops, and Reclamation Shops, who hold seniority at that point in accordance with the rules agreement.

At Cheyenne, Wyoming, in connection with the aforementioned shops, and as an integral part of said shops the carrier also maintains a shop known as the Main Power House or "The Power House". The Power House is under the jurisdiction of the superintendent of shops or master mechanic of the motive power & machinery department of said carrier.

enne revealed only these work orders. It was also determined that all the work in connection with both of these projects was performed by B&B forces and that no boilermakers were used.

In the course of the meeting, it was suggested that in the light of the available evidence, the general chairmen of the two organizations might get together and dispose of the matter. The Maintenance of Way Organization again agreed and the Boilermakers' Organization declined. Upon adjournment, the carrier representatives stated their willingness to discuss the claim with the boilermakers further, but on the basis of the available evidence could see no merit.

This claim has no merit under Rule 73 relied upon or the past practice on the property. Accordingly, it must 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 employee or employees involved in this dispute are respectively carrier and employee 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.

An exhaust fan was built into the wall of the powerhouse at Cheyenne with its motor inside the building. A new heavy motor required a heavy steel supporting frame and platform embedded in concrete floor and structural steel of walls, and the Carrier had the work done by the Bridge & Building Department.

The Boilermakers claim this work under their Scope Rule 73. The same kind of work, involving I-beam girders, is within the Maintenance of Way organization's agreement, and has traditionally been performed in the construction and improvement of buildings by that organization's members in the Bridge & Building Department. The record shows that this construction became an integral part of the building, and not such a trade fixture or accessory as to be readily removable. It was therefore properly done by the Bridge & Building Department.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 18th day of April 1962.

DISSENT OF LABOR MEMBERS TO AWARD NO. 3973

The majority, in denying the claim involved in the instant case, erroneously found that this platform which was built for the specific purpose of installing

an exhaust fan to remove fumes and heat from the power house building at Cheyenne, Wyoming, became an integral part of the building and concludes its decision with the following statement: "It was therefore properly done by the Bridge & Building Department."

It is quite obvious that the majority not only ignored the clear, unambiguous language of the Federated Rules Agreement in effect on this property between the carrier and System Federation No. 105, applicable to the boiler-makers' craft, but also ignored the clear definition of the word "integral" as well as the clear cut decisions on like cases contained in Awards 1269, 2273 and 2506 of this Board. Webster's New International Unabridged Dictionary defines the word "integral" as follows:

1. Essential to completeness; constituent, as a part; pertinent to, or serving to form, an integer; integrant.
2. Composed of constituent parts making a whole; composite; integrated.
3. Lacking nothing of completeness; complete; entire.

On the basis of the mere fact that the platform was anchored to the wall, concrete floor and structural members of the power house building, the majority erroneously found it became an integral part thereof. However, from the foregoing definition of integral, it is abundantly clear that for the platform to have become an integral part of the power house building it must have been a necessary component part, without which the building would not have been complete, which is not true in the instant case since the platform was built for the sole purpose of installing an exhaust fan for the purpose of removing heat and fumes from inside the power house created by the power house boilers and other fumes creating equipment used by the maintenance of equipment employees while performing their respective classification of work in the power house. Therefore, the platform was not an integral part of the building. It was simply an appurtenance or trade fixture within the building.

In Second Division Award 2506, with Referee Dudley E. Whiting sitting as a member of the Board, he very aptly determined the circumstances under which such installations became an integral part of a building wherein he stated in pertinent part: "When not done as an integral part of the construction or remodeling of a building, making cabinets and bins, for use in or attachment to an existing structure, is not building construction but fixture making."

As in Second Division Award 2506, the platform in the instant case was *** not done as integral part of the construction or remodeling of a building, *** and the majority should have so found.

C. F. Bagwell

T. E. Losey

E. J. McDermott

Edward W. Wiesner

James B. Zink