Award No. 4517
Docket No. 4432
2-SP(PL)-MA-'64

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 114, RAILWAY EMPLOYES' DEPARTMENT, A. F. of L. - C. I. O. (Machinists)

SOUTHERN PACIFIC COMPANY (Pacific Lines)

DISPUTE: CLAIM OF EMPLOYES: 1—That under the current agreement the Carrier's use of Equipment Operator M. C. Thrasher—an employe represented by the Brotherhood of Maintenance of Way Employes—four (4) hours on the date of January 5, 1962 to remove and replace Load Line Bands on Burro Crane SPO-131, was improper, in violation of the collective bargaining contract.

2—That accordingly, the Carrier be ordered to additionally compensate Motor Car Mechanic Elmer Kile (hereinafter referred to as claimant), in the amount of four (4) hours compensation at the pro rata rate of pay for the date of January 5, 1962, account Carrier depriving claimant and other employes of like classification subject to terms of the parties contract, the right to perform the involved repair work coming within the Scope of said contract, when the work referred to hereinabove was assigned to, and performed by an employe represented by the aforementiond oerganization, not subject to any terms or the controlling agreement.

EMPLOYES' STATEMENT OF FACTS: Repairs to Burro Crane SPO-131 consisting of removing and replacing Load Line Bands was performed by equipment operator M. C. Thrasher within 500 feet of the Sacramento Division Automotive and Work-Equipment Shop wherein claimant and other motor car mechanics were on duty and available.

It is a fact, not subject to dispute, that operators of equipment such as that here involved, have no contractual right to perform such repair work, and therefore carry no tools for performance thereof. In this connection and in support of this stated fact, the record discloses that equipment operator Thrasher was required to borrow necessary tools from motor car mechanics on duty in the Sacramento Division Automotive and Work-Equipment Shop, on the date of January 5, 1962 for performing the involved repair work.

The repair work here in dispute has been properly recognized by practice

claim in this docket is entirely lacking in merit and requests that it 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 were given due notice of hearing thereon.

The Division finds that the Petitioner has not met its required burden of proof to show that the task of changing a worn out Load Line Band in a Burro Crane is work that, by the terms of the Agreement, is exclusively assigned to the Claimant's craft.

In analyzing the language of Article 40 of the Agreement, upon which the Petitioner placed great reliance, the Article states in part:

> "Machinists' work shall consist of laying out, fitting, adjusting, shaping, boring, slotting, milling and grinding of metals used in * * * maintaining * * * cranes * * * and all other work generally recognized as Machinists' work."

the Division does not find that the language of this Article gives a motor car mechanic, or any other member of the Craft, the exclusive right to do the work which is incidental to the continued operation of the Crane in question.

It also appears that it must have been within the contemplation of the parties that the Crane Operator should replace or change worn out Bands under circumstances similar or identical to those in question, for otherwise there would have been no significance or purpose in carrying extra Bands on the Crane and in equipping the Crane Operators with a set of wrenches.

Further evidence that there was an established practice of Crane Operators' changing Bands is seen by the disposition of prior claim MC-152-4, on the property, by the parties, wherein it was determined that it was not a violation of the Agreement for the Operator to change a band, but that it was a violation when he went beyond that work and also relined the band.

In the light of the total record of this case, the Division is unable to sustain the claim and must deny it.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 12th day of June, 1964.