

Award No. 5148
Docket No. 4949
2-CRRofNJ-SM-'67

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

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

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 72, RAILWAY EMPLOYES'
DEPARTMENT, AFL-CIO (Sheet Metal Workers)**

THE CENTRAL RAILROAD COMPANY OF NEW JERSEY

DISPUTE: CLAIM OF EMPLOYEES:

(a) That the Carrier violated the controlling Agreement and particularly Rules 18 and 76 thereof, between the Central Railroad Company of New Jersey and System Federation No. 72, when they assigned employes from another department to perform Sheet Metal Workers' work of installing pipe lines and unit heaters in Elizabethport Freight Shop, at Elizabethport, New Jersey.

(b) That this claim is a continuing claim and will continue until satisfactorily disposed of in its entirety.

(c) That Claimants, William Gerhardt, A. Barna, B. McDonald, J. Kara, N. LoPresto, N. Riccardi, John Sowizral, V. Fiorentino and G. Blumetti be compensated at their regular established hourly pro rata rate of pay as follows:

| | | | |
|------------------|-----------|---------------------|-----------|
| William Gerhardt | 112 hours | A. Barna | 112 hours |
| B. McDonald | 24 hours | J. Kara | 8 hours |
| N. LoPresto | 8 hours | N. Riccardi | 8 hours |
| John Sowizral | 8 hours | V. Fiorentino | 8 hours |
| | | G. Blumetti, Helper | 8 hours |

(d) That all work in shops, yards and buildings as herein or hereinafter referred to, or contained in Sheet Metal Workers' Special Classification of Work Rule No. 76 be properly assigned to and performed by employes of the Sheet Metal Workers' craft.

EMPLOYEES' STATEMENT OF FACTS: On dates of November 15, 1963; December 3, 5 and 9, 1963; January 6, 7, 8, 9, 10, 20, 21, and 22, 1964; February 10 and 11, 1964; the carrier improperly assigned the following named employes from the maintenance of way department to the work of erecting and installing five (5) unit heaters, including pipe lines, of $\frac{3}{4}$ inch and $1\frac{1}{4}$ inch pipe

In view of the facts outlined herein and as the agreement does not confer exclusive jurisdiction of this work to sheet metal workers, this claim should be denied in its entirety.

(Exhibits not reproduced.)

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.

In this complaint Employees allege that certain work which consisted of the installation of pipe lines and unit heaters in Elizabethport Freight Shop was performed by Maintenance of Way Employees instead of by Sheet Metal Workers, it being averred that this was contrary to Rules 18 and 76 of the controlling agreement.

A painstaking review of relevant authorities makes it clear that Sheet Metal Workers do not have exclusive rights to such work. The installation of a new heating system without question would appear to fall within the class of work designated to be accomplished by B&B forces of the Maintenance of Way Employees. See Second Division Award No. 1656.

Then, when we consider the installation of pipe lines in a situation such as we have here, there is ample authority that work substantially the same as that here in dispute has been performed by employes represented by the Brotherhood of Maintenance of Way Employees. See Second Division Award No. 4130 which contains an exhaustive review of the many questions raised in that dispute which were much similar to those here considered.

As was stated in Second Division Award No. 2198: "The fact that carmen may have, in some instances, performed the work is not conclusively controlling when it does not appear that there have been a practice under which they have been doing it exclusively. See Award No. 1110 of this Division." (Emphasis ours.)

We do not believe Claimants have established that Sheet Metal Workers, as a matter of tradition, historical practice and custom, have been habitually assigned such work as that here considered to the exclusion of Maintenance of Way Employees. Consequently this claim should be denied.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 28th day of April, 1967.

Keenan Printing Co., Chicago, Ill.

Printed in U.S.A.