



Award Number 5950

Docket Number 5751

2-W&W-SM-'70

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 16, RAILWAY EMPLOYEES'

**DEPARTMENT, A. F. L. - C. I. O.
(Sheet Metal Workers)**

DISPUTE: CLAIM OF EMPLOYEES:

1. That the Carrier violated the current Agreement particularly Rule No. 84, when they improperly assigned other than Sheet Metal Workers (B&B Carpenters) to the erecting and assembling of Sheet metal clothes lockers starting on or about April 17, 1967 and June 1, 1967.
2. That accordingly the carrier be ordered to:
 - A. Discontinue the use of employes other than employes of the Sheet Metal Workers Craft in performing the work of erecting and assembling sheet metal lockers.
 - B. Compensate Sheet Metal Workers' R. A. Short O. W. Brown and H. M. Chapman each in the amount of 144 hours, to be equally divided among them, at their regular rate of pay per hour, and for each date that other than Sheet Metal Workers are assigned to perform the above identified work in the amount of eight (8) hours each, at the pro rata rate.

EMPLOYEES' STATEMENT OF FACT: At Roanoke, Virginia, the Norfolk and Western Railway Company, hereinafter referred to as the carrier, maintains a Shop known as Roanoke Shops, for the repair of locomotives, cars, and other equipment. Sheet metal workers are employed by the carrier in its Roanoke Shops, to perform their work as specified in the current controlling agreement.

On or about April 17 and June 1, 1967, in the carriers Roanoke Shops, Roanoke, Virginia, sheet metal clothes lockers, all of which comes within the gauge of metal called for in Rule 84, to be used by the Mechanical Department forces in their locker room Smith Shop, were assembled and set up by Norfolk and Western B & B Carpenters, who were assigned to this work under protest by the local committee.

This dispute has been handled with all officers of the carrier designated to handle such disputes, including carrier's highest designated officer, all of whom have declined to make satisfactory adjustment. Correspondence showing the record of handling on the property is attached.

- (d) The claimants all held regular assignments and suffered no loss. See Special Board 570 Awards (No. 3 dissent) and 5, 6, 8, 36, 37, 44, 53, 61, 97, 104 and 105.

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.

This dispute involved Rule 84 of the current agreement between the parties, and the assembling of new sheet metal clothes lockers pursuant to instructions as set forth in the record.

The work was performed in Carrier's Roanoke Smith Shop employes room, and that after assembling the lockers they were placed on but not attached to pedestals provided for the lockers.

It is the Organization's contention that such work is covered by Rule 84, because the rule specifically provides for the assembling of sheet metal parts in shop buildings in the mechanical department. Furthermore, such work heretofore had been assigned to the Sheet Metal Workers craft whenever it was performed in the shop buildings at this location.

Carrier contends that Rule 84 does not specifically mention steel or clothes lockers, that the work was performed on new lockers, that the work was only a small part of the total project, and that similar work had been performed by other crafts for many years.

The Board finds that the Organization contentions to be more correct under the conditions in this dispute, namely: The metal clothes lockers required assembling, and were not attached to the building which was located in the building serving shop employes. See Awards 2357 and 2695.

As to part 2-A of the claim, it must be denied. This Board has no injunctive or equitable powers, and cannot direct the Carrier in the conduct of its business. See Awards 4726 and 4264.

As for part 2-B of the claim, it is sustained for wages lost for the reasons found in Third Division Award 14371.

The record indicates that third party notice of the pendency of this dispute was given.

A W A R D

The claim is sustained to the extent indicated in the findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 25th day of June, 1970.

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