

Award No. 6146
Docket No. 6008
2-N&W-SM-'71

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee John J. McGovern when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 16, RAILWAY EMPLOYES'
DEPARTMENT, AFL-CIO (Sheet Metal Workers)**

NORFOLK AND WESTERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYES:

1. That the Carrier violated the current Agreement particularly Rule No. 84, when they improperly assigned other than Sheet Metal Workers (Maintenance of Way Section Crew) to install two hundred and fifty two (252) feet of 8-inch Cast Iron mechanical joint pipe to be used as sewer line from main pumping station to main sewer. On October 28, 29, 30 and 31, 1968.

2. That accordingly the Carrier be ordered to additionally compensate the following sheet metal workers' Lamberts Point Shop, Maintenance Gang, in the amount of ninety (90) hours, at the time and one half rate to be equally divided among them for this violation.

CLAIMANTS

C. E. Ohge
F. A. Nash
C. T. Blair
E. D. Scott

E. L. Hurt
Miles Ratliff
E. P. Brown
J. S. Dundalow

EMPLOYES' STATEMENT OF FACTS: At Norfolk, Virginia, the Norfolk and Western Railway Company, hereinafter referred to as the carrier, maintains a shop and Coal Piers known as Lamberts Point, where is located the shops, yards, buildings and coal pier. Sheet metal workers are employed by the carrier at Lamberts Point to perform their work as specified in the current controlling agreement.

Beginning on October 28, 1968, in the Lamberts Point yard, Norfolk, Virginia, an 8-inch cast iron mechanical joint pipe line to be used as a sewer line was cut, fit and assembled with tools borrowed from the sheet metal workers maintenance gang by a maintenance of way section gang, who were assigned to this work under protest by the local committee.

(b) Past practice antedating the agreement supports Carrier's right to assign work. See Second Division Awards 3277, 3300 and 4130.

(c) Management has certain rights and prerogatives to manage its affairs when not restricted by the agreement. See Second Division Award 3862.

(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. See also many Second Division Awards.

5. The Organization has not and cannot meet the burden of proof that the work herein involved has been exclusively performed historically, customarily and traditionally by the sheet metal workers. See Second Division Award No. 5740.

6. Payment at the punitive rate is not justified.

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.

The issue confronting the Board in this case is whether or not the work actually performed is work reserved exclusively to the Petitioning Organization. The work specifically involved the installation of two hundred and fifty two (252) feet of 8-inch Cast Iron Mechanical joint pipe which was to be used as a sewer line from the main pumping station to the main sewer. Maintenance of Way employes performed the work with the result that the Sheet Metal Workers have filed the instant claim. Petitioner relies on the Classification of Work Rule, Rule 84.

An examination of the record indicates that Maintenance of Way employes on this particular Carrier, have performed this type of work for many years. Furthermore, the parties and the issue are identical to those contained in Award 5951 (Zumas), which culminated in the rendition of a denial award. We support the reasoning of that award and will deny the claim.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 21st day of April, 1971.

Keenan Printing Co., Chicago, Ill.

Printed in U.S.A.