

The Second Division consisted of the regular members and in addition Referee Dana E. Eischen when award was rendered.

Parties to Dispute: (International Association of Machinists
(and Aerospace Workers
(
(St. Louis-San Francisco Railway Company

Dispute: Claim of Employees:

- (a) That under the current agreement, Machinists Dean Kjar, Ron Agostini and Don Miller, hereinafter called the Claimants, were unjustly deprived of work which was improperly assigned by the St. Louis-San Francisco Railway Company, hereinafter called the Carrier, during a period from August 17, 1972 through September 21, 1972.
- (b) That accordingly, the Carrier be ordered to pay the Claimants, at their regular rate of pay, for the hours which they were denied, as specified later in this submission.

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 waived right of appearance at hearing thereon.

The essential facts out of which this claim arose are not in dispute. During the period April 17, 1972 through September 21, 1972, the Carrier's entire fleet of 114 tank cars was processed through the Car Department of the Consolidated Mechanical Shop at Springfield, Missouri for refurbishing and repairs. As part of this operation, employees in the carmen craft removed the safety relief ("pop") valves from the cars and took them to employees in the Machinist craft for cleaning and testing. After disassembling, cleaning, testing and reassembling by the Machinists, the Carmen reapplied the valves to the tank cars.

On September 26, 1972 the Organization herein submitted the instant claim alleging that in addition to the cleaning and testing, removal and reapplication of tank car pop valves was exclusively vested in Machinists by custom, practice and tradition. In this connection, the Organization claimed a violation of Rule 51 of the applicable Agreement, which reads as follows:

"Rule 51. Should a jurisdictional dispute arise between any of the crafts signatory to this agreement, it is agreed the craft then performing the work shall continue to do so until the dispute is settled by the crafts involved.

Prior to inaugurating a new process or operation that conflicts with a craft's work classification rules, Management will consult jointly with the General Chairman in an effort to allocate the work to the proper craft. In event allocation cannot be arrived at in conference, then Management may require the work to be performed by the craft they consider entitled to the work."

Carrier denied the claim primarily upon the ground that the work had been performed by the craft considered to be entitled to the work. The Organization thereupon appealed the claim to our Board without any effort at inter-organizational settlement on the property. The Brotherhood of Railway Carmen has a third party interest in this matter and upon due notice presented a submission on the record and was represented at the hearing in this case.

The Organization herein insists that this is not a jurisdictional dispute and accordingly is not subject to the mandate of Rule 51, whereby such disputes are referable to settlement on the property by the crafts involved. Our review of the record, however, leaves no doubt that this is a case where two crafts each are claiming the exclusive right to perform certain work under past practice and for their respective work classification rules. In our considered judgement, this is a jurisdictional dispute arising between two signatories to the controlling Agreement, inclusive of Rule 51. Moreover, the record is clear that the petitioning Organization has not complied with the requirements of Rule 51 for settlement of the dispute by the crafts involved on the property.

In view of the foregoing, it appears to us that the claim is prematurely before us. The procedures available for settlement on the property have not ever been invoked let alone exhausted; nor has any showing of futility or impossibility been made on this record. In these circumstances we have no alternative but to dismiss the claim. See Awards 2747, 2931, 5789, 5793.

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Award No. 6763
Docket No. 6599
2-SLSF-MA-'74

A W A R D

Claim dismissed without prejudice.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 26th day of September, 1974.

