

The Second Division consisted of the regular members and in addition Referee Walter C. Wallace when award was rendered.

Parties to Dispute: (International Association of Machinists
and Aerospace Workers - District No. 3
A. F. of L. - C. I. O.
(Chicago and North Western Transportation Company

Dispute: Claim of Employees:

- (a) The Chicago and North Western Transportation Company violated Rules' #6, #29, #53, #61 and #62 when they arbitrarily assigned Machinist work to Electricians when they established a new traction motor shop at Oelwein, Iowa Shops on October 3, 1973.
- (b) The Union requests the company to assign this work in accordance with the Machinist Special Rule #62, to pay A. Hines and L. Lofty eight (8) hours each at the pro rata time and one-half rate of pay, and all others cited in Exhibits 16C-17C, accordingly, until the Carrier corrects this instant violation, as this is a continuing claim.

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 Carrier abolished a traction motor shop in Chicago, Building M-1, about May 31, 1956. Thereafter the Carrier sent traction motors out for replacement by new or rebuilt motors. This was the subject of a dispute that was considered in Award 3184. About July, 1973, the Carrier decided to repair traction motors and a portion of the Oelwein Shops was selected for this purpose. The dispute here concerns the claim of the Petitioner, the Machinists, that their work had been arbitrarily assigned to the Electricians by the Carrier. The specific work involved the removing and replacing of pinion gears on traction motors.

It is claimed that the allocation of work at Oelwein was made pursuant to an agreement between a General Superintendent of the Carrier and the two General Chairmen of the Organizations involved whereby the distribution of work would be

based upon the practices which existed at the M-1 traction motor shop in Chicago. The Petitioner denies the existence of an agreement for such work distribution and maintains the division of work at the M-1 shops was made in accordance with each crafts' special rules. It is Petitioners' contention that the work involved belonged to the Machinists and submits Affidavits and Bulletins from Machinists who worked at the Chicago shops.

The Carrier, for its part, offers rebuttals in terms of the scope rule applicable to Electricians and other arguments. The Electricians, as third party, supported the Carrier with respect to the understanding that the division of work at the new Oelwein traction motor repair shop would be on the same basis as the work had been divided prior to May 31, 1956 when such work was performed at the Carriers' M-1 shop in Chicago. In accordance with the rule applicable to their work, the Electricians conclude that the removing and replacing of pinion gears on traction motors is their work.

If this dispute were one of first impression the questions involved here would merit independent examination in depth. They are not. In companion cases involving the same parties, the same rules, the same location and, essentially, the same disputed questions, the claims were denied. Awards 6990 and 6991 (Referee Lieberman). In Award 6990 the dispute concerned the removal and replacement of armature ball bearings on traction motors. Award 6991 involved the checking, measuring and fitting of support bearing caps connected with traction motors.

In the Third Division Award 15460 (Referee Ives) it is stated:

"Under the doctrine of Stare Decisis, where a point of law has been settled by decision, it forms a precedent which should ordinarily be strictly adhered to unless overriding considerations of public policy demand otherwise."

The overriding considerations of public policy must involve more than a mere difference of view. See Second Division Award 5552. In the Third Division Award 11140 (Referee Moore) the doctrine of Stare Decisis was controlling but the opinion stated:

"Although we might disagree with parts of the opinion in Award 10715, we are not prepared to declare the award to be palpably wrong."

Awards 6990 and 6991 interpreted the classification of Work Rule for Machinists, Rule 62, and the rule applicable to Electricians, Rule 115. It was concluded that the work assignments were consistent with the rule favoring the Electricians, saying:

"Petitioner has not met its burden of establishing proof of past practice which could lead to a contrary conclusion."

The doctrine of Stare Decisis applies here. The parties are entitled to equal protection under the rules and we cannot disturb settled matters. Whatever differences we may have with the Awards 6990 and 6991, it cannot be said they are manifestly wrong and, accordingly, the conclusions reached there are applicable here and the claim is denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 16th day of July, 1976.