

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

Parties to Dispute: (Sheet Metal Workers' International
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(Norfolk and Western Railway Company

Dispute: Claim of Employees:

1. That under the current Agreement, other than employees of the Sheet Metal Workers' Craft (Carmen), were improperly assigned to perform pipe work consisting of cutting, fitting and installing guard rail hand rail constructed from one and one half ($1\frac{1}{2}$) inch pipe and three quarter ($\frac{3}{4}$) inch pipe in the Scrub Room, Roanoke Shops, Roanoke, Virginia on May 7, 1974.
2. That accordingly, the Carrier be ordered to additionally compensate sheet metal workers J. E. Minnix and C. L. Minnix, Jr., in the amount of one hundred (100) hours at the time and one half rate, to be equally divided among them for this work.

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 were given due notice of hearing thereon.

The Organization asserts that Carmen were improperly assigned to perform pipe work that consisted of cutting, fitting and installing a handrail in Carrier's Roanoke Shops on the claim date in question.

Carrier contends that the claim must be rejected because the work of installing handrails does not belong exclusively to this Organization. Carrier cited other instances in the past where other crafts had performed identical work. Carrier further contends that this Board in previous awards has held that identical work to that complained of herein does not come within the Organization's Classification of Work Rule.

In Second Division Award No. 6049 involving the same parties and a virtually identical statement of Claim, this Division denied the claim stating:

"The Carrier assigned the work of installing a 1 1/2-inch handrail on the roof of a cinder block building to employees of the Maintenance of Way Department. This was done in connection with converting Carrier's diesel maintenance facilities at Roanoke Shops to an assembly-line type of production.

The Employees contend that the work involved is exclusively theirs under Rule No. 84 of the effective Agreement. Rule No. 84 reads:

'Sheet metal workers' work shall consist of tinning, coppersmithing and pipefitting in shops, yards, buildings, on passenger coaches and engines of all kinds; the building, dismantling (for repairs only) and maintaining parts made of sheet copper, brass, tin, zinc, white metal, lead, black, planished, pickled, and galvanized iron of 10 gauge and lighter (present practice between sheet metal workers and boilermakers to continue relative to gauge of iron), including brazing, soldering, tinning, leading and babbitting (except car and tender truck journal bearings), the bending, fitting, cutting, threading (when men are regularly assigned to operate pipecutting and threading machines), brazing, connecting and disconnecting of air, water, gas, oil and steam pipes, the operation of babbit fires (in connection with sheet metal workers' work), oxyacetylene, thermit and electric welding, and all other work generally recognized as sheet metal workers' work.'

Second Division National Railroad Adjustment Board Award 5951 (Zumas) involved the same parties and Rule.

Award 5951 states:

'Rule 84, relied on by the Organization, is vague and unclear. There is no classification under the rule which covers the work complained of.

The record does disclose, however, that in the past this kind of work had been performed by Maintenance of Way employees. There is no necessity to cite authority for the long standing tenet of this Board that absent a clear and unambiguous rule, past practice governs.'

"'In the claim before the Board the employees have failed to show their right to the work by past practice. We agree with the Referee in Award 5951 when he stated that Rule No. 84 'is vague and unclear.'"

Award No. 6049 is sound, and the Organization has shown no reason to deviate from its findings.

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 15th day of October, 1976.