

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

Parties to Dispute: { Sheet Metal Workers' International Association
{
{ Seaboard Coast Line Railroad Company

Dispute: Claim of Employees:

1. That on or about September 3, 1974, Seaboard Coast Line Foreman at Waycross, Georgia Shop, assigned carmen to install the following parts on office car #308.
 1. Metal under arm on toilet seat.
 2. Metal shroud around toilet.
 3. Metal top to toilet.
 4. Metal bracket to hold commode flush valve.
 5. Metal around flush valve in porter's toilet.
 6. Cover at back of toilet over flush valve.
2. That the Seaboard Coast Line Railroad be ordered to compensate Sheet Metal Workers C. E. Waldron ID-139102, C. F. Aycock, R. J. Brett, D. Cason, D. Sirmons and F. Aspinwall for thirty-six (36) hours each at time and one-half rate of pay.

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.

Office Car 308 was in Waycross Shops for repairs on or about September 3, 1974. At that time Carmen installed the parts listed above in the Statement of Claim. As a result of Carmen performing this work, the Sheet Metal Workers filed a claim on October 22, 1974 for thirty-six (36) hours each at time and one-half in behalf of Claimants.

When the dispute was submitted to the Adjustment Board, the Brotherhood of Railway Carmen of the United States and Canada, System Federation No. 42, A.F.L. - C.I.O., joined the dispute "as a vitally interested third party."

The Carmen submit that the Sheet Metal Workers are requesting the Board to amend Rule No. 85, Sheet Metal Workers' Classification, of the controlling Agreement, to give Sheet Metal Workers work that they presently do not have either by Agreement or past practice on the property of Carrier.

The record shows that the Sheet Metal Workers' claim letter to the Carrier, dated October 22, 1974, stated the following:

"The misassignment of Carmen to do Sheetmetal Workers' work outlined in Rule 85 has been in dispute before, but is still being done. I would like to see this matter settled, and Sheet Metal Workers be allowed to perform their work."

Moreover, in their submission to the Board, the Sheet Metal Workers went on to say:

"The Carrier is arguing that they cannot change a practice because of the letter of December 20, 1967. We have argued with the Carrier that they have already changed a practice when they assigned Carmen to perform work involved in this claim." (Emphasis added).

Carrier, in its submission to the Board, makes the assertion:

"... the Sheet Metal Workers are seeking work which has historically been performed by Carmen. If, in their opinion, such work belongs to their craft, there is a procedural remedy for settlement of such issues. The December 20, 1967 Letter of Understanding ... clearly sets forth the procedure to follow. ... The Sheet Metal Workers have failed to comply with the remedy for settlement of items of work in dispute."

The Carmen in their rebuttal argue that:

"For the December 20, 1967 letter to be applicable there would have to be a conflict between the Sheet Metal Workers' rule and that of the Carmen. That factor is not involved in this dispute. There is no conflict in the rules. The Sheet Metal Worker's rule does not cover work on any cars except passenger coaches. The car involved was not a passenger coach."

"Notwithstanding the foregoing, the letter of understanding dated December 20, 1967 most assuredly does not support the position of the Sheet Metal Workers ..."

"Any jurisdictional dispute over this work then obligates the Sheet Metal Workers by the very terms of this letter of understanding to attempt to settle it with the Carmen, including if necessary, asking for a conference of all interested parties. They have done none of this and are accordingly, in violation of this letter of understanding."

Page 2 of the letter of December 20, 1967, signed by the Carrier and representatives of each of the Shop Craft organizations, contains, in part, the following language:

"When the consolidated agreement becomes effective, it is therefore agreed that where conflicts exist regarding specific items of work in the classification of work rules of the new agreement, no changes in the practices of performing such work that were in effect prior to the merger will be made by the Company until such conflicts or jurisdictional disputes are settled."

"Where there is a conflict in specific items of work between the shop crafts and other organizations, it is agreed that no changes will be made by the Company in the practices of performing such work that were in effect prior to the merger until such conflicts are settled."

"The organizations will present to management their proposals for settlement of such conflicts or disputes, and the management will accept any reasonable proposal. Rates of pay will not be a deciding factor in management's acceptance or rejection of proposed settlements." (Emphasis added).

It is obvious, from the record before us, that a jurisdictional dispute exists regarding specific items of work covered by the respective classification of work rules of the two organizations, each averring that the work involved has been historically performed by employees in their respective craft.

Based upon a thorough review of the record in this case the Board finds: that a jurisdictional dispute does exist; that an agreed upon procedure was established by all concerned parties for the settlement of such disputes; and that the Sheet Metal Workers have not availed themselves of such procedure. There are a host of recent Awards by this Division attesting to the fact that this Board, under the circumstances described above, does not assume jurisdiction over disputes between Organizations and we are therefore constrained to dismiss the claim. (See Second Division Awards 7296, 7255, 7199, 7198, 7092, 7059, 7058, 6872, 6864, 6825, 6809, 6765, 6763, 6759, 5793, 5789, 2931 and 2747).

A W A R D

Claim dismissed.

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 12th day of July, 1977.