

The Second Division consisted of the regular members and in addition Referee Robert G. Williams when award was rendered.

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

Dispute: Claim of Employees:

- (1) That the carrier, willfully and knowingly, violated Rule 43 of the contract agreement when it assigned the operation of a Freight Master Center Plate Refinishing Machine to employees of the Blacksmith craft.
- (2) That the carrier be ordered to assign the operation of the Freight Master Center Plate Refinishing Machine to employees of the Machinist Craft.
- (3) That the carrier be ordered to pay claim for eight (8) hours additional compensation each for two machinist for each day blacksmiths operate the Freight Master Plate Refinishing Machine commencing November 21, 1974, continuing until the work is properly assigned such claim to be paid to Machinist A. R. Moore and Machinist E. O. Cathcart.

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.

This claim involves the reclamation of the "bowl" area on truck bolsters. Before 1973 some center castings were removed from the equipment, and taken to the machine shop where a machinist used a standard boring mill to restore them. The common practice, however, was to remetal the worn surfaces and then use a hand grinder to restore the castings. This latter work was performed by Blacksmiths. This method was unsatisfactory so the Carrier borrowed and then purchased two Freight Master Center Plate Refinishing

Machines which were placed in service on August 30, 1974. This equipment was operated by Blacksmiths in the Truck Shop. Essentially, this equipment and its operation replaced the remetaling and grinding work previously done by Blacksmiths. It also eliminated the need to send any of the center castings to the Machine Shop for restoration or boring mills.

The issue in this case is whether the assignment of the reclamation work to the Blacksmiths was a violation of the machinist classification of work rule 43. This Board has reviewed numerous prior awards and the vigorous dissents of our labor members who have considered these work classification rules. These cases uniformly hold that such provisions are not equipment rules. The mere fact that a specific tool is being used does not automatically bring the work within the scope of the rule. The organization must first show that the work falls within the scope of the rule before a violation of a work classification rule can be established. The term "work" admittedly has numerous meanings. The language of Rule 43 and prior awards provide little guidance for defining the infinite variety of tasks performed by craft employees. Each case has been handled on an individual basis. "Work", however, does not involve the use of an employee's services to produce a specific result.

In this case, Blacksmiths historically have been primarily responsible for restoring truck bolsters by grinding. Machinists, on the other hand, have machined some center castings brought to the Machine Shop. With the purchase of the new refinishing machines, both of these methods for reclaiming truck bolsters have been replaced. The Blacksmiths, however, continue to be responsible for restoring truck bolster center plates. Historically, this work has been the responsibility of Blacksmiths. Since Rule 43 does not expressly describe the work in question, the Organization must show that this work was "generally recognized as machinist work on this carrier". The record in this case, however, is to the contrary and shows the Blacksmiths traditionally restored truck bolster center plates. This Board therefore must deny this claim.

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 4th day of August, 1978.

LABOR MEMBER'S DISSENT TO

AWARD NO. 7642, DOCKET NO. 7156-T

The majority in Award No. 7642 has reached a conclusion with astonishing rationale that is neither understandable, even handed nor squaring with the facts of the record and the applicable agreement provisions.

This neutral acknowledges that previous to the purchase of this new machine, when this work item needed machining it was performed by a machinist using a boring mill machine. Previous to the purchase of this machine the Blacksmith craft had only performed minor repairs to this work item with hand tools as needed. This fact was irrefutably proven by the petitioner and actually confirmed by both the Carrier and the Third Party. The Carrier then acquired a portable boring mill machine, and assigned it to the Blacksmiths in direct violation of the above accepted past practices as well as agreement language governing such a work process.

Even casual review and comparison of the two crafts' classification by anybody, both unbiased and not a complete novice, would dictate a conclusion that such a work process utilizing a boring mill machine was only covered by the unambiguous language of the machinist Classification of work Rule 43. The portability of a machine by no stretch of the imagination removed it from the unambiguous language of this rule. Then if past practice is reviewed it confirms the prior previous assignment of this work item to the machinist craft when machining was utilized. At no time in all of those

previous years did this Third Party, nor any other, ever take exception to this proper assignment.

All of this portrays deliberate misassignment of work by the Carrier in violation of the agreement as well as past practice, and the neutral becomes a party to this mischief in not so holding. The neutral was furnished with countless prior awards and precedents that correctly considered these work classification rules and apparently which he chose to disdainfully ignore in his irrational and erroneous conclusions.

Award No. 7642 is, therefore, erroneous and without value as precedent, and to which this dissent is addressed.


G. R. DeHague
Labor Member