

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
{
{ Missouri Pacific Railroad Company

Dispute: Claim of Employees:

1. That the Missouri Pacific Railroad Company violated the controlling Agreement, particularly Rules 26(a), 52(a) and 53, when they arbitrarily assigned the work of splicing a band saw blade 1/16 inch thick for the Do All Power Saw located in the Boiler Shop, North Little Rock, Arkansas, from the Machinists' Craft to the Blacksmiths' Craft.
2. That accordingly, the Missouri Pacific Railroad Company be ordered to compensate Machinist J. B. Wirges in the amount of four (4) hours at the punitive rate of Machinist Welder for being denied the right to perform machinists' work on Friday, February 21, 1975. This claim is also made as a continuous claim for Machinist Maintenance Welder H. H. Haustein for everytime after Friday, February 21, 1975 that the Blacksmiths' Craft is allowed to perform machinists' 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 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.

Prior to April 1, 1971, the Texas and Pacific Railway, then a subsidiary and now absorbed into the Missouri Pacific Railroad, maintained a coupler reclamation shop at Marshall, Texas. The shop served Carrier's entire system until April 1, 1971 when the main building in the T & P shop complex was destroyed by fire. Carrier subsequently relocated the coupler reclamation shop at North Little Rock, Arkansas.

On February 21, 1975, in Carrier's Blacksmith Shop at North Little Rock, a blacksmith spliced a broken DoAll Power Saw blade. The Organization maintains that this is work properly assigned to Machinists. Carrier and the Boilermakers and Blacksmiths (appearing pursuant to the third party notice) argue that the work was correctly assigned to a Blacksmith.

Upon careful examination of the entire record before us we find that:

In order to claim the work for themselves, the Machinists must show either clear and unambiguous language in the Controlling Agreement or system-wide past practice by which the work at issue has been assigned to them exclusively. (Awards 3544 and 5980). There is no showing of clear and unambiguous Contract language assigning the task in question--viz., welding--exclusively to Machinists. Rule 26(a) limits assignment of mechanic's work to mechanics and is a general rule applicable to all shop crafts (including Machinists and Blacksmiths). On its face, Rule 26(a) does not reserve work to any particular craft, but rather incorporates by reference the special rules of each craft. Further, the Classification of Work rules for Machinists (Rule 52(a)) and for Blacksmiths (Rule 88) both specifically include welding, the method by which the saw blade was repaired.

It has been established on the record that it is the practice of Carrier to have the craft which most frequently uses a tool repair it. The saw in question is used primarily to saw off the butt ends of couplers, which is Blacksmiths' work. Splicing of the DoAll Power Saw blade had never been done at Carrier's North Little Rock facility prior to the February 21, 1975 incident; therefore, Machinists have not shown past practice of assigning work to them. Finally, although practice on the now absorbed Texas and Pacific Railway may not control the instant situation, carrier's assertion is not refuted that at the Marshall, Texas facility splicing of band saw blades was performed by Blacksmiths "under agreement provisions identical in all relevant respects to those relied upon by the parties involved in this dispute". So far as the record shows the performance of this work by Blacksmiths at Marshall was not challenged. Moreover, both Organizations were signatories to a consolidation agreement, dated November 12, 1971, in which specific reference was made that "freight coupler work by blacksmiths would be transferred from the T&P at Marshall to the MP at Little Rock" (Award 6923).

Based upon all of the foregoing, the Board finds nothing in the record to support the Organization's claim that splicing of the DoAll Power Saw blade is work which contractually is reserved to Machinists. The claim must be denied.

A W A R D

Claim denied.

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Award No. 7949
Docket No. 7294-T
2-MP-MA-'79

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 13th day of June, 1979.

RECEIVED

JUN 20 1979

LABOR MEMBERS' DISSENT TO

J. W. GOHMANN AWARD NO. 7949, DOCKET NO. 7294-T

The rationale in this instant Award No. 7949 is just as erroneous as in the companion Award No. 7948 and so by reference many of the comments in the dissent to Award No. 7948 are adopted by reference hereto. Such as particularly the length of time to to render a decision as apparently affecting an uninformed adjudication.

In this instant case the majority has again chosen to ignore the clear and unambiguous language of the machinist Classification of Work Rule 52 which would encompass the tool work involved. No other Classification of Work Rule in the Agreement copied such coverage and certainly not the Third Party's. Further there was not any proven practice on this Carrier that any craft repaired a tool that it used. This was an unsupported Third Party allegation that for some unknown reason the majority chose to be influenced by.

This fallacious thinking is further compounded by extensive listing of work performed under a different process, i.e. heating in forge, on a different property under a wholly separate and distinct Agreement. Certainly there had been no practice established on this property on a new machine and therefore the Agreement language as stated above should have been controlling and not some asserted and unproven practice on another property. This majority is well aware of such rationalizing on his part as being in conflict with all tenets, precedents, and practices of the National Railroad Adjustment Board regarding "stranger agreements" "rewriting agreements", etc.

This seemingly disdain for agreement language and principals established by this Board calls for this dissent.



George R. DeHague
Labor Member