

The Second Division consisted of the regular members and in addition Referee George E. Larney when award was rendered.

Parties to Dispute: { Sheet Metal Workers' International Association
{
{ Burlington Northern Inc.

Dispute: Claim of Employees:

1. The Carrier violated the provisions of the current agreement when they improperly assigned other than Sheet Metal Workers to disconnect, cut, bend, fit and connect 3/8 inch, 1/2 inch and 3/4 inch oil pipes on a machine located in the new Wheel Shop at the Burlington Northern Havelock Shops on or about April 8, 9, and 11, 1977.
2. That accordingly, the carrier compensate Sheet Metal Workers R. L. Mizek and M. A. Marshall each in the amount of twenty eight (28) hours pay at the rate of time and one half the prevailing rate for the above stated dates.

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.

Two Claimants of the Sheet Metal craft allege they were denied the opportunity to perform work at their trade, contractually reserved and guaranteed them, when, on dates of April 8, 9, and 11, 1977 respectively, Carrier assigned employees of the Machinists' Craft to perform work on a burnishing lathe machine located in the new automated Wheel Shop at Havelock, Nebraska. As a result, Claimants request they each be compensated for twenty-eight (28) hours pay at the rate of time and one-half (1½) the prevailing rate paid on the aforementioned dates.

The instant dispute arose as a result of Carrier needing to have corrective work done on a burnishing lathe so as to make the machine operable. Carrier acquired the lathe from another of its shops located at St. Paul, Minnesota and shipped the machine to the Havelock Wheel Shop located at

Havelock, Nebraska. When received at Havelock, it was determined the lathe was in inoperable condition requiring complete rebuilding of its hydraulic control system. Carrier arranged to have this work performed by an outside contractor who completely redesigned and modernized the machine. Specifically, the work involved the design and renewal of the hydraulic control panels, consisting of manifold, valves and piping. When the control panels were received from the outside contractor, Carrier discovered they could not be mounted to the original pump and reservoir of the lathe because the manifold in each panel was turned ninety (90) degrees from what it should have been. Corrective measures were necessary to make the lathe operable and inasmuch as the Carrier was not prepared to endure further delays in the machine's operation, Carrier decided to use their own employees to perform the required work under the direction of the outside contractor. Carrier assigned employees of the Machinist Craft to perform the aforementioned work, which consisted of removing the manifolds from each control panel, blocking or plugging the existing holes and drilling and tapping new ones on the opposite side of the manifolds. In order to accomplish these tasks it was necessary to disconnect and reconnect steel hydraulic lines running to the manifolds and valves.

The Organization takes the position that the tasks involved in disconnecting and reconnecting the steel hydraulic lines running to the manifolds and valves constituted a preponderance of the work involved in modifying the lathe and that these tasks are contractually reserved for the Sheet Metal Craft under the Classification of Work Rule 71 of the Controlling Collective Bargaining Agreement effective April 1, 1970. The Organization supports its basic position by noting that in order to correct the control system panels more than one hundred (100) oil pipes were disconnected, cut, bent, fit and reconnected and more than five hundred (500) pipe fittings were disconnected, fit and reconnected. The Organization argues there are no exceptions to Rule 71 which would permit other crafts to perform pipefitting work to oil pipes.

The Carrier takes the position that the tasks of disconnecting and reconnecting the hydraulic lines were incidental to the main task of correcting the design error in the control panel's manifolds. Carrier does not agree with the Organization's position that work performed on the hydraulic lines associated with correcting the lathe, was contractually reserved to the Sheet Metal Craft, as Rule 71 covering the Classification of Work does not, the Carrier contends, include machines of the type such as the burnishing lathe here in question. Carrier interprets Rule 71 to mean that sheet metal workers will be used to renew and repair hydraulic lines in the shop, when these lines are mounted on walls, ceilings or floors, but when the lines reach or are integral parts of machines, then machinists will be used. More precisely, Carrier adopts the view that while Rule 71 makes references to pipes, the rule does not grant the exclusive right to sheet metal workers to work on pipes which are part of a machine. Notwithstanding its position on the substantive issue here before the Board, it is the position of the Carrier that the Board lacks jurisdiction over the instant claim because of the Organization's failure to utilize available procedures on the property

to first settle the underlying craft jurisdiction controversy with the Machinists' Organization.

The International Association of Machinists and Aerospace Workers were given notice of this dispute pursuant to Section 3 First (j) of the Railway Labor Act, and did file a response.

Although this Board is certain that the tasks associated with correcting the burnishing lathe of disconnecting and reconnecting hydraulic lines are indeed tasks performed by sheet metal workers, we are not at all certain that these same tasks are contractually reserved to the Sheet Metal Craft under Rule 71 of the controlling agreement, given the instant circumstances, as the rule does not specifically mention machines of the type such as the burnishing lathe here before us for consideration. Rule 71 is specific however when it comes to performing such tasks of the sheet metal trade when applicable to shops, yards, buildings, passenger coaches and engines of all kinds. As Rule 71 appears to be silent with regard to said shop machines per se, it is the opinion of the Board that the instant claim is a dispute of the jurisdictional kind as that contemplated under Rule 93 of the Controlling Agreement of April 1, 1970. As such, the Organization should have proceeded to resolve the craft controversy first with the International Association of Machinists union, the exclusive bargaining representative of the employees assigned by Carrier to perform the work. In so ruling the instant dispute a jurisdictional matter, this Board acknowledges its lack of jurisdiction to consider the merits of the instant claim and thereby accordingly dismisses the claim.

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 - Administrative Assistant

Dated at Chicago, Illinois, this 13th day of June, 1979.