

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

Parties to Dispute: ( International Association of Machinists and  
( Aerospace Workers  
( Alton & Southern Railroad Company

Dispute: Claim of Employes:

1. That the Alton & Southern Railroad Company violated the controlling Agreement, particularly Rule 31 when they arbitrarily assigned Carmen to perform maintenance work on the Mechanical's Department pettibone multi-crane.
2. That accordingly, the Alton & Southern Railroad be ordered to compensate Machinists R. Wagner and R. McCluskey in the amount of five (5) hours straight time for each Machinist.

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 employes 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.

The dispute arises out of Carrier assigning carmen to perform certain repair work on a Pettibone Multi-crane, described as resembling a fork lift, is mobile and used as an over-the-road piece of equipment by carmen in providing hoisting capability in their car repair work outside the shop area.

The particular work covered by the claim is described by the Organization as follows:

"On Wednesday, April 14, 1981, in the Mechanical Facility at the Alton & Southern Railroad in East St. Louis, Illinois, which is one large building housing the Car Department for repairs of Freight cars and the Locomotive Department for the repairs of the Diesel Locomotive, at or about 11:00 a.m., Car Foreman D. Moore arbitrarily assigned Carman D. Smith with the assistance of Carman G. Peach, to perform maintenance work on the Mechanical Department's pettibone multi-crane. Carmen were assigned the work of laying out and cutting with

an oxyacetylene torch two (2) pieces of 1/2" x 2" mild steel bar stock. After doing so, they fitted these in place between the hydraulic out-rigger supports and welded them in place with an electric welder to form an "out-rigger arm stop" for the left hydraulic out-rigger on the Pettibone multi-crane. Carman Smith then laid out and cut with an oxyacetylene torch another piece of 1/2" x 2" mild steel bar stock and with an electric welder, welded to the out-rigger arm pivot shaft and out-rigger support of the left rear hydraulic out-rigger on the Pettibone multi-crane.

Carmen Smith and Peach then proceeded to lay out and cut with an oxyacetylene torch, a piece of mild steel sheet 1/2" by 3-1/2" x 6" and welded this in place on the right rear hydraulic out-rigger support and out-rigger arm pivot shaft on the Pettibone multi-crane.

They then again laid out and cut with an oxyacetylene torch a piece of 1/2" x 2" mild steel bar stock and welded it with an electric welder to the opposite end of the right rear out-rigger arm pivot shaft and out-rigger support on the Pettibone multi-crane. Carmen Smith and Peach proceeded to heat, with an oxyacetylene torch, and straightened the pin lifter support bracket on the right front side of this piece on the Pettibone multi-crane. After having straightened the bracket back to its original shape, Carman Smith then welded it with an electric welder to the right front out-rigger support."

The Organization contends the claim is supported by the Machinists' Classification of Work Rule 31, as follows:

"RULE 31. Machinists' work shall consist of laying out, fitting, adjusting, shaping, boring, slotting, milling, and grinding of metals used in building, assembling, maintaining, dismantling, and installing locomotives and engines (operated by steam or other power), pumps, cranes, hoists, elevators, pneumatic and hydraulic tools and machinery, scale building, shafting, and other shop machinery, ratchet and other skilled drilling and reaming; tool and die making, tool grinding and machine grinding, axle truing, axle, wheel and tire turning and boring; engine inspecting, air equipment, lubricator and injector work; removing, replacing, grinding, bolting and breaking of all joints on superheaters; oxyacetylene, thermit, and electric welding on work generally recognized as machinists' work; the operation of all machines used in such work, including drill presses and bolt threaders using a facing, boring, and turning head or milling apparatus, and all other work generally recognized as Machinists' work." (Emphasis Supplied)

Prior to July 1978 the type of repair work covered by the claim was performed by boilermakers and blacksmiths without protest from the machinists. As of that date all employes in those two crafts were discontinued at the facility. Since that date repair work on the Pettibone Crane has been performed by machinists on some occasions and at other times by carmen. Affidavits showing that machinists have done the work were submitted by the Organization in support of the claim. Similarly, the Carrier, in opposing the claim, submitted affidavits from carmen who have performed the work since July 1978.

As set forth by the Carrier, the heavy type of metal used in the repair work, laying out, fitting up, heating and heat treating were functions typically performed by boilermakers and blacksmiths under their respective Work Classifications Rules 35 and 38 respectively. It was due to these reasons that machinists made no protests to the work being done by those two crafts in the years prior to July 1978.

Rule 31 reserves to machinists work described in the rule as it pertains to the machining of metals used in maintaining shop equipment and machines. That the rule does not contain language granting exclusive jurisdiction over the work covered by the claim is clearly demonstrated by the history of the way the work has been performed in the past. Sound reason opposes interpreting Rule 31 as granting exclusive jurisdiction to the repair and maintenance of mobile equipment such as the Pettibone Crane which is generally used outside the shop area by carmen. Neither the history of the way the work has been performed nor the language in Rule 31 meet the burden of proof required in support of the claim.

In a similar case on the Missouri Pacific (Second Division Award No. 7709) the Organization claimed the work when the Carrier assigned other than machinists to change a tire on a fork lift truck. The Classification of Work Rule in that case was similar to Rule 31 here involved. The award in that case stated as follows:

"We do not find the work which is the subject of this claim to be specifically reserved by the rule.

The Organization has also alleged that the past practice on this Carrier was such as to vest the work of changing fork lift tires in the machinists. Where past practice is alleged it is encumbent (sic) upon the organization to bear the burden of proof. We have carefully considered the record in this case and find the organization to have failed to meet the burden imposed upon it in this regard. Past practice remains an unproved assertion. We must deny the claim."

In review it must be recognized that what we have here is a particular kind of repair work that in the past has been performed by four separate crafts and not until this late date has the Organization asserted a claim of exclusive jurisdiction. Neither the language of Rule 31 nor past practice support the claim and it must be denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 8th day of August, 1984.