

The Second Division consisted of the regular members and in addition Referee W. J. Peck 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 violated the controlling Agreement, particularly Rules 52(a), 26(a), 29 and the No Transfer of Work Rule, when they arbitrarily assigned Boilermakers to perform Machinists' work on trailer frames at North Little Rock, Arkansas.
2. That accordingly, the Missouri Pacific Railroad be orderd to compensate Machinists L. B. Schultz, C. M. Moore, J. F. Lucas, W. F. Gifford, and L. W. Fletcher in the amount of forty (40) hours' pay at the time and one-half rate to be divided equally among the Machinists heretofore mentioned.

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 Carrier maintains a repair facility at North Little Rock, Arkansas employing various shopcraft employes which includes Machinists and Boilermakers. On date of February 2, 3, and 4 and 10 and 11, 1981, the Carrier used Boilermakers to make certain modifications to two (2) four wheel trailers which were to be used to haul locomotive truck frames. The Machinists contend that the modifications should have been performed by Machinists. They allege that:

"The Boilermakers laid out, cut, fitted together, and welded eight (8) 8" x 9" iron sections to form four (4) box tubing legs which they fit and welded vertically to the frame of the trailer at a point directly over and to the inside of the end of each axle, furthermore they laid out, cut, fitted together, and welded four (4) 8" x 93" channel iron sections to make two (2) 8" x 7" x 93" box tubing cross pieces that they then welded on top of the four (4) support legs with its length horizontal in relation to the axle and its width vertical in relation to the legs. Finally they laid out, cut, fitted together, and welded four (4) 1/4" x 2" x 52" sections of iron of which they made four (4) cradles that they welded and braced at each corner of the pad so that the base of the locomotive truck frame pedestal jaws would ride safely on this trailer."

This description of the work performed by the Boilermakers does not appear to have been challenged by either the Carrier or the Boilermakers.

The Machinists contend that this is work covered by their classification of work rules and that it has been historically performed by Machinists. They also contend that these trailers are shop machinery and that the Machinists, not the Boilermakers can make repairs or modifications to shop machinery, and in their submission to this Board they contend that these trailers are tools and cite the dictionary definition of tool which is:

"an instrument or apparatus used in performing an operation of necessary in the practice of a vocation or profession."

And finally the Machinists contend that:

"Others may use tools, but the Machinists' craft, by exclusive right, is the only craft permitted to make tools, and since Machinists are established as being the only craft with the exclusive right to make tools, then the Carrier erred in assigning others to perform this work."

The Carrier contends that this work is not covered by the Machinists' classification of work rules, that it is not shop machinery, and that while Machinists had performed some work on wagons and trailers such as that in the instant claim; "such work was confined to work on the running gear and towing gear." They further contend that this work has always been assigned to Boilermakers.

The Boilermakers contend that this work is not covered by the Machinists' classification of work rules, that it is covered by the Boilermakers' classification of work rules, that the modification involved the laying out cutting, assembling and welding of channel iron and sheet iron and that this work has always been assigned to the Boilermakers. They further contend that this dispute does not deal with shop machinery "but an over the road type trailer used for hauling locomotive truck frames over public highways" and that even if these trailers were shop machinery "it would be irrelevant as all crafts work on and repair shop machinery in some respect or other."

All parties cite various awards in support of their positions.

We have carefully considered these conflicting contentions as well as the rules and awards cited by the parties and find the following:

There seems to be no conflict over what work was actually performed on these trailers.

Other than welding which all crafts perform, the work is not specifically set forth in anyone's classification of work rules, however that of the Boilermakers comes closest.

The fact that the words "shop machinery" is included in the Machinists classification of work rules and not in the others cannot be construed as conveying "exclusive jurisdiction", as other crafts do work on and repair shop machinery, the Electricians, for instance, work on and repair electrically operated or

electrically powered cranes, magnet cranes, electric welding machines, electric battery chargers and other electrically powered machinery.

Whether or not these trailers could be considered tools as contended by the Machinists is meaningless, as the words "tool and die making" appearing in the Machinists' classification of work rules cannot possibly be construed to include making modifications or repairs to rubber tired trailers.

The past practice cited by the parties is in dispute, apparently not of very great volume, but does to some extent support the position of the Boilermakers.

The awards referred to are conflicting and most do not cover work such as involved in this dispute, however Awards Nos. 9304 and 9459, both of which involve the same parties, the same rules and the same point as in the instant case cover an almost identical situation, and both denied the claim of the Machinists.

Considering all of the facts and all of the evidence as well as all of the contentions submitted by the parties, we find that the petitioner has not sustained his burden of proof, we must deny this claim.

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.