

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

Parties to Dispute: (Sheet Metal Workers' International Association
(
(Missouri Pacific Railroad Company

Dispute: Claim of Employees:

1. That the Missouri Pacific Railroad Company violated the controlling agreement, particularly Rule 97, and Letter of Understanding of May 1, 1940, when they arbitrarily assigned Boilermakers to burn four (4) 1-1/2" sand pipes and two (2) 1/2" air pipes loose from hood being removed from Engine #1211 being stripped to make Slug Unit.
2. That accordingly, the Missouri Pacific Railroad Company be ordered to compensate Sheet Metal Worker B. R. Ramsey in the amount of two hours (2) July 11, 1980, North Little Rock, Arkansas.

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 decided to convert Diesel Unit 1211 to a slug unit, completely stripping it down to the frame, including the removal of both trucks were later reused in the conversion. It is acknowledged the Carrier assigned employes from crafts which normally performed repair work on Unit 1211 to cut loose the components of Unit 1211 except for the frame and trucks. A sheet metal worker was included in this assignment. When the cab of this unit began to be lifted by the assigned boilermakers on July 11, 1980, four 1 1/2" sand pipes and two 1/2" air pipes had to be burned in order to complete the cab's removal. The work was performed by boilermakers, and it is this assignment which has brought about the Organization's instant claim.

The Organization claims a violation of Rule 97 expressly reserves the work to employes it represents, and the May 1, 1940, Letter of Understanding provides that work will not be transferred from one craft to another.

The Carrier initially responded invoking Rule 46 which pertains to the "work of scrapping engines, boilers, tanks..." and permits the work to be performed by any class of available help. Subsequently, the Carrier indicated that, if the work in question is assigned to the Organization by reason of Rule 97, the Carrier considered the work performed to be in line with Rule 62(c), which provides:

"Boilermakers, in the performance of their work, may remove and replace any parts belonging to the work of other crafts when connection to their work, or which may interfere with their work."

The Organization disagreed with the Carrier and asserted that, in May, 1972, the rule was amended, as follows:

"So called 'Kite Tail' rules in Scheduled Agreements on the individual Carriers, insofar as those rules apply to running repair or rolling stock are superceded by this rule."

Part of the problem herein lies with the Carrier's initial attempt to deny the legitimacy of the Organization's claim by asserting the assignment of work to other than Organization represented employes fell within an exception by reason of Rule 46. Clearly, the stripping of Unit 1211 was not the act of scrapping an engine, but rather, as stated, the unit was being modified. There is no question the Carrier's original assignments were proper and according to work traditionally handled by the respective crafts involved. For whatever reason, the work in question was not completed, and when the cab was lifted, something had to be done. At this point in time, the lifting of Unit 1211's cab was being performed by Boilermakers. Despite the Organization's contention that Rule 62(c) has been superceded, this Board finds no basis to hold that Kite Tail agreements are superceded as they apply to other than rolling stock. Herein, we are obviously dealing with a situation other than running repairs or rolling stock.


This Board's finding in no way affects the basic intent of Rule 97 and the assignment of work reserved to the Organization. This was a special situation, and the Carrier had a right to resort to Rule 62(c) which is an exception to the generally recognized interpretation of Rule 97.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Deyer - Executive Secretary

Dated at Chicago, Illinois, this 19th day of September 1984.