

The Second Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

Parties to Dispute: (Sheet Metal Workers International Association
(Southern Pacific Transportation Company

Dispute: Claim of Employees:

- (1) That Carrier violated Rules 33 and 77 of current Motive Power and Car Department Agreement on July 1, 1981 when work coming under Rule 77 and generally recognized as sheet metal workers work was arbitrarily assigned to employees other than Sheet Metal Workers.
- (2) That Carrier has acknowledged the violation to be true as claimed.
- (3) That Carrier pay claimant T. Taylor 4 hours pay at straight time rate.

Findings:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employees 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 Machinists Organization, a third party at interest, was notified of this dispute and determined that no response was necessary.

Two Machinists were assigned to connect multiple unit hoses in making up a train consist at the El Paso, Texas Locomotive Maintenance Plant on July 1, 1981. There is no dispute that such work should properly be assigned to Sheet Metal Workers. The Carrier conceded this during the processing of the claim.

The Carrier is correct that an offer of settlement made during the claim processing, rejected by the Organization, should not be considered by the Board. This does not affect, however, the Carrier's admission as to the improper assignment of work.

The Organization argues that the proper settlement of this matter is the payment of four hours' pay to a Sheet Metal Worker on his rest day who was available for the work. The Organization cites Rule 6 (b) which reads in pertinent part as follows:

"Except as otherwise provided in the Agreement employees required to work on their assigned rest days will be allowed a minimum of four (4) hours for two (2) hours and forty (40) minutes work or less, and thereafter at the overtime rate."

The Carrier argues that the work involved took only ten minutes and should be considered *de minimis*. The Carrier further suggests that a payment of four hours' pay would be inappropriate.

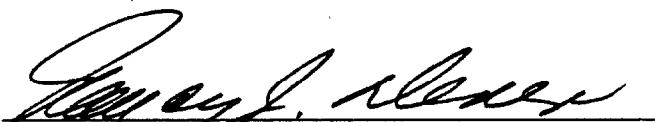
The Board does not agree with the Carrier's position. Absent any rule to the contrary, the failure to assign work to the craft whose exclusive jurisdiction is recognized is not a trivial matter. Rule 6 (b) provides the appropriate remedy, specifying a "minimum" payment of four hours.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 26th day of September 1984.