

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

Parties to Dispute: (Brotherhood Railway Carmen of the United States and Canada
(Louisville and Nashville Railroad Company

Dispute: Claim of Employees:

1. That the Louisville and Nashville Railroad Company, improperly filled the position of Carman G. D. Ford of operating a Fork Lift with a Machinist Helper on January 7, 8, 9, 10 and 11, First Shift, 7:00 AM, to 3:00 PM.
2. Accordingly, the Louisville and Nashville Railroad Company should be ordered to pay Forklift Operator Carman Helper S. Hefley eight (8) hours at the time and one-half rate of pay for each date or forty (40) hours at the time and one-half rate of pay for January 7, 8, 9, 10 and 11, 1980.

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.

This case involves a claim by the Carmen's Organization that the Carrier improperly filled a Carman's position of operating a fork lift with a Machinist Helper on five days in 1980. Subsequently, the Machinist's Organization responded and took the position the vacancy was properly filled by the Machinist Helper and, accordingly, claimed the work.

With both the Carmen and Machinists claiming the work involved, this Board must conclude a jurisdictional dispute exists. The parties to this dispute are signatories to Letters of Understanding dated in 1943 and made part of the controlling Agreement and attached thereto as "Appendix A". This Agreement requires that signatory Organizations settle disputes over the right to perform work before any claims are submitted to the Carrier. This Board has previously upheld the control of Appendix A over such jurisdictional disputes. In Award No. 6825, he states, in part:

"Appendix A is a valid and legally operative agreement, entered into in good faith by both the Boilermakers and Sheet Metal Workers. It provides the machinery to be followed by those Organizations when a dispute arises involving jurisdiction of work. Consistent with that Agreement it is incumbent on the Sheet Metal Workers to meet with the Boilermakers in order to resolve this dispute over the work in question. No exceptions to this requirement are contained in the Agreement and we have no jurisdiction to impose any under the guise of contract interpretation. Until such time as the parties decide to abrogate Appendix A, we feel compelled to apply it to jurisdictional disputes such as the one now before us. Based on the foregoing we will decline to accept jurisdiction over this dispute."

As a Board, we are not disposed to abandoning that line of reasoning, and we will, therefore, dismiss the claim.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 9th day of January 1985.