Form 1 NATIONAL RAILROAD ADJUSTMENT BOARD Award No. 10805
SECOND DIVISION Docket No. 10771-T
2-SSR-MA-'86

The Second Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.

(International Association of Machinists and Aerospace
(Workers
Parties to Dispute: (
(Seaboard System Railroad

Dispute: Claim of Employes:

1. That the Seaboard System Railroad (formerly Seaboard Coast Line Railroad) violated the current and controlling Agreement, dated January 1, 1968, particularly Rules 51 and 26, but not limited thereto, when they misassigned Machinists' work of setting up brakes and testing locomotives for outbound service at Rocky Mount, North Carolina, on May 7, 1983 to an electrician and a hostler.

2. That accordingly, Machinist L. F. Melvin who was available to perform the misassigned Machinist' work on May 7, 1983, be compensated in amount of eight hours pay at the overtime 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 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.

Claimant L. F. Melvin is employed as a Machinist by the Carrier, Seaboard System Railroad. As of April 22, 1983, a Machinist no longer was regularly assigned to the Carrier's Rocky Mount, North Carolina, Engine House on Saturdays. On Saturday, May 7, 1983, the Rocky Mount Engine House Foreman sent an Electrician and a Hostler to the South Rocky Mount train yard to cut an engine from one train, put it on another, and test it to go out. The Organization filed a Claim on the Claimant's behalf, charging that the Claimant was available and should have been assigned the work that instead was assigned to the Hostler on May 7, 1983.

The Organization contends that the Carrier violated the Controlling Agreement, particularly, but not limited to, Rules 51 and 26, when it reassigned the Rocky Mount Machinist position so that no Machinist was on duty on Saturdays, and then assigned an Electrician and a Hostler to do Machinists' work on May 7, 1983. Rule 51 provides:

"(a) 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) . . . ; engine inspection, air equipment; . . . the operation of all machines used in such work."

Rule 26 provides:

"(a) None but mechanics or apprentices regularly employed as such shall do mechanics' work as per special rules of each craft, except foremen at points where no mechanics are employed.

(b) This rule does not prohibit foremen in the exercise of their duties to perform work.

(c) At points where there is not sufficient work to justify employing a mechanic of each craft, the mechanic or mechanics employed at such points will, so far as they are capable of doing so, perform the work of any craft that it may be necessary to have performed.

(d) Helpers when used in any way in connection with mechanics' work shall in all cases work under the orders of the mechanic, both under the direction of the Foreman."

The Organization argues that the disputed work - - setting up brakes and mechanically testing locomotives for outbound service - - has been recognized system-wide as Machinists' work under the Agreement, custom, and past practice. The Organization asserts that the Agreement does not allow the Carrier to assign Hostlers and Electricians to perform and/or assist in Machinists' work; Hostlers have never performed the disputed work at any point in the Carrier system where Machinists are assigned and available to perform the work.

The Organization argues that the Carrier cannot simply blank the Machinists' job and transfer the work to Electricians and Hostlers; the Carrier misassigned the disputed work on May 7, 1983. The Organization therefore contends that the Claim should be sustained in its entirety: the Claimant should be compensated in the amount of eight hours' pay at the overtime rate, and in the future, a Machinist should be made available to perform all Machinists' work at Rocky Mount, North Carolina.

The Carrier contends that the Organization has not established that the disputed work is reserved for Machinists under the Controlling Agreement or past practice. No inspection of the locomotive at issue was required, nor was an inspection form completed in this case. Checking brake operation on outbound locomotives is not reserved to any craft by either Agreement or past practice. The Carrier further points out that Rule 51 makes no reference either to testing brakes or to coupling or uncoupling locomotives; in fact, other crafts' Agreements specifically include this type of work. The Carrier argues, therefore, that the disputed work does not belong to the Machinists' craft either by Agreement or by past practice.

The Carrier finally argues that any of its fundamental rights that are neither specifically limited nor abridged by the Controlling Agreement are reserved for the Carrier's free exercise. The Carrier asserts that it is free, therefore, to assign its employees and run its business in any legal manner.

The Carrier therefore contends that there has been no violation of the Agreement, and this Claim should be denied in its entirety.

It is fundamental that absent an express reference to the disputed work in the Classification of Work Rule, an Organization bears the burden of proof to demonstrate that the disputed work has historically, customarily, traditionally, and exclusively been performed by the craft which is claiming it. In this case, the Machinists must demonstrate conclusively that the coupling and uncoupling of locomotives and the testing of brakes is exclusively and traditionally Machinists' work. See Awards Nos. 9236, and 7174.

This Board has reviewed all of the evidence in this case, and it finds that there is no evidence in the record to substantiate the Organization's claim that the disputed work has been performed by Machinists to the exclusion of others. On the contrary, there is sufficient evidence that Hostlers, Hostler Helpers, Engineers, and Electricians all perform the work claimed by the Machinists in this case. Hence, there is not sufficient evidence for the Board to find the work exclusively belongs to the Machinists and that the Carrier violated the agreement. See Award No. 10051.

As we have stated in the past, except insofar as it is restricted by the Collective Bargaining Agreement or limited by law, the assignment of work necessary for its operations lies within the Carrier's discretion. See Award No. 1777. In this case, there are no such restrictions or limitations as claimed by the Organization; and therefore the Claim 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 2nd day of April 1986.