

The Second Division consisted of the regular members and in addition Referee Raymond E. McAlpin when award was rendered.

(International Association of Machinists and  
( Aerospace Workers  
Parties to Dispute: (  
(Missouri Pacific Railroad Company

Dispute: Claim of Employees:

1. Claim in behalf of Machinist P. A. Tacket in the amount of twenty-six hours and forty minutes (26'40") at the pro rata rate, which constitutes ten calls at the pro rata rate of two hours and forty minutes (2'40") per call, and Machinist E. H. Johnson in the amount of twenty-four hours (24') at the pro rata rate, which constitutes nine calls, under Rule 4(d), due to Carrier's violation of Rule 51 wherein they assigned Carmen to perform locomotive inspections as per attachments to original letter of claim dated December 23, 1983. Claim is continuing for subsequent violations.

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.

On October 25, 1983, a second-shift Machinist's position became open at the Carrier's Train Yard at Palestine, Texas. There were no furloughed Machinists to recall to the position and the Carrier was successful in filling the position through a transfer of a Machinist on November 8, 1983. During this time, Carmen performed locomotive inspection work in the Train Yard. This work had previously been performed by second-shift Machinists. The two Claimants, P. A. Tacket and E. H. Johnson, want ten and nine callouts, respectively, under Rule 4(d) of the Agreement.

The Organization contends the Carrier had violated Rule 51 and Rule 52(a) of the Agreement. It argued Machinists have the exclusive right to perform locomotive inspections and that since no Machinist was assigned to the shift in question, the Carrier violated the Agreement. Therefore, the Carrier had an obligation to call out the senior Machinists to perform this work. The Organization argued the two Claimants should be paid the nineteen callouts at the appropriate overtime rate.

The Carrier argued the second-shift job was open because the Machinist that was normally assigned to that shift had bid on a first-shift job. It notes there are actually two properties in the area, a Shop to maintain cars, which employs the Claimants, and the Train Yard for inspecting trains, which contained the opening in question. The Carrier notes it gave the opportunity to Machinists at other locations to bid on this job, and that it filled the position in as expeditious a manner as possible. The Carrier denies that it is required to use Machinists from the Shop to perform jobs in the Train Yard as these are two separate properties. The Carrier states Rule 26(b) does not require it to employ Mechanics rather than Machinists where there is not sufficient work and that it has the right to postpone the work performed until a Machinist is employed. During the time that the position was open, there was not sufficient work to warrant the employment of a full-time Machinist.


Upon complete review of the evidence, the Board finds the Claimants in this case are on the same Roster as the jobs in question. However, they are on separate overtime sheets and on separate properties. The Board finds that the Carrier has the right to postpone work. Rule 26(b) allows for work to be performed by a different Craft when sufficient work is not available to support a full time Machinist. This is not a case where the Carrier is attempting to bypass the Labor Agreement; it did fill the job as quickly as possible. If this had not been the situation the case would have been decided differently. It should be noted that this case differs from Second Division Award 10920 in two respects: 1. The opening did not occur because of an action taken by the Carrier; 2. The Rule as noted above does not appear in that record. Under the narrow circumstances of this case, and for the reasons stated above, the Board will 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 23rd day of July 1986.