

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

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

Dispute: Claim of Employees:

1. That the Carrier violated Rules 33 and 77 of the current Motive Power and Car Department Agreement between the Parties.

2. That claimants F. Sanders and F. Mayberry be compensated by the Carrier for eight (8) hours each at their straight time rate of pay.

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.

This is a Scope Rule case involving jurisdiction of the work related to installation of 1-1/2" pipeline from Carrier's main line to a service valve for servicing a Proceco Washer and Dryer Machine at Car Shop 3 at Carrier's Sacramento Locomotive works.

Claimants contend the disputed work performed by the Brotherhood of Maintenance of Way Employees should have been allocated to Sheet Metal Workers.

In support of its position, the Organization relies on provisions of Rule 33 and 77-Classification of Work. The Organization concedes that Rule 77 clearly exempts work performed by the Maintenance of Way Employees.

The Brotherhood of Maintenance of Way Employees has been given third-party notice of this dispute, but has made no submission herein.

The record shows that it has been the practice on the property to set the line between assigned work to MofW employees and that assigned to SMW at the service line valve when work is performed on pipelines.

Essentially, this is a factual dispute on the question of whether or not the valve is a service valve. In addition, its location with respect to the work performed is disputed.

The Organization contends the work in question is reserved exclusively to its employees. As evidence thereof, the Organization submitted records of thirteen (13) claims settled by Carrier involving the use of MofW employees doing work allegedly belonging to SMW.

The Organization also contends a procedural violation of Rule 38 occurred when Carrier's official failed to provide an adequate reason for denying Claim in his March 15, 1984, letter.

Carrier contends Claim is too vague and should be dismissed for lack of essential specific facts describing dates or hours when, where and to what extent the violation occurred.

Carrier also contends exclusivity of the work in question has not been established under the terms of the Agreement or past practice.

Carrier further contends that settlement of Claims at a local level has no effect on the proper Interpretation of the Rules of the Current Agreement.

Finally, Carrier objects to Organization's procedural argument. Carrier contends it made proper denial and cited Awards holding that no particular form or language is required in advancing reasons for denying Claims.

In Scope Rule cases the Board has determined in prior Awards that the Organization must sustain its burden of proof with respect to exclusivity of work. Third Division Awards 20421; 19761.

In the instant case, such evidence was not presented. In the Board's view, the entire Claim lacks the specificity necessary to make a determination whether the Claim is valid. Even if the Board were to give weight to the Organization's Claim of exclusivity of work performed, the record is devoid of sufficient facts to clearly establish what function the valve in question serves, its location, when work was performed and dates of service. Accordingly, we are unable to sustain the Claim.

Notwithstanding, this dismissal should not be construed as granting work to either Brotherhood of Maintenance of Way Employees or the Sheet Metal Workers.

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 4th day of March 1987.