

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

PARTIES TO DISPUTE: (International Brotherhood of Electrical Workers  
(  
(CSX Transportation, Inc. (Formerly Seaboard Coast  
( Line Railroad Company)

STATEMENT OF CLAIM:

1. That the CSX Transportation, Inc. (SCL) violated the controlling agreement, in particular, Rules 93 and 26(a) at Rocky Mount Shop, Rocky Mount, North Carolina beginning July 24, 1985 when Carrier transferred the connecting and disconnecting of control cables for diesel locomotives used in freight service and electrical testing of diesel locomotives to the transportation employees, specifically the Hostlers and Hostlers Helpers.

2. That accordingly, the CSX Transportation, Inc. (SCL) compensate the following Electricians W. H. Stewart, ID No. 111608, W. B. McDonald, ID No. 135083, S. M. Harris, Jr., ID No. 140738 and J. W. Smith, ID No. 176722 in the amount of two (2) hours and forty (40) minutes each at the overtime rate for this continuous time claim beginning July 24, 1985 and ending at such time when jumper cable and electrical testing of diesel locomotives work is restored to the Electricians at Rocky Mount, North Carolina both dates inclusive.

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.

As Third Party in Interest, the United Transportation Union was advised of the pendency of this dispute and did file a Submission with the Division.

The instant dispute is a continuing claim for loss of work opportunity wherein Carrier has allegedly violated Rules 93 and 26(a). Claim was filed on September 12, 1985, on behalf of Electricians declaring that Carrier

had removed what was historically Electricians work and given it to the Hostlers Craft. That work consisted of disconnecting and connecting jumper cables and load testing of engines at Rocky Mount, North Carolina.

The Organization supports its claim with contractual Rules, a 1980 letter from the Master Mechanic, a letter and signed statement attesting to past practice and Awards. The letter from the Master Mechanic states that:

"The work of setting up and testing locomotive consists belongs contractually to the Machinists and Electricians Crafts and it is a violation to permit other employees to perform this work at a point where these crafts are employed."

The UTU-E Local Chairman concurs in stating that:

"Until recently (approximately Feb. 83) electricians and machinest (sic) were required to do the usual coupling of jumper cables, air hoses and other devices between locomotives...and to conduct the proper brake test associated with the locomotives in a consist.. The firemans contract does allow these things but it is very specific also that we must not infringe upon the contractual rights of any other craft.."

The Organization maintains that by historical practice at this point the contested work belongs to the Electricians.

The UTU-E entered a Third Party response which supported the Electricians position in the instant case. It argued that at this point on the Carrier's system, said work had "been performed exclusively by Electricians for many years;.."

The Carrier denies any violation in that such work does not belong to the Electricians. It notes that the disputed work does not require skilled technical ability and is performed without meters or testing devices. The Carrier notes that Rocky Mount had been previously a running repair and servicing facility for locomotives, but after 1983 was basically used as a fueling track. It is the Carrier's position that the contested work does not exclusively belong to Electricians and has been performed by Hostlers over the system for years.

The Board's review of the Assignment of Work Rules 26(a) and the Classification of Work Rule 93 finds that they do not specify the work herein contested as belonging to Electricians. As such, since said work of connecting and disconnecting jumper cables and "load testing" of locomotives are not exclusively reserved by Agreement, the instant case must turn on historical practice.

The assertion of past practice must be supported with substantial probative evidence. Carrier argues that conditions changed when it closed the Rocky Mount Shop in 1983, but such does not change the basis of the contested work. Carrier asserts that said work "is performed by hostlers at numerous locations over the entire Seaboard System Railroad." It presented Awards and argument asserting that the Organization must prove system-wide exclusivity to prevail. The Organization argues that it must only demonstrate exclusivity at a single point on the Carrier's lines (Public Law Board No. 3953, Award No. 5).

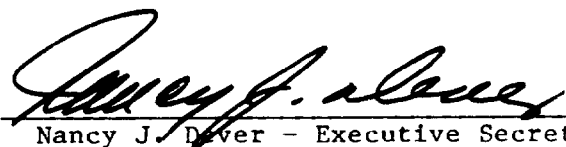
This Board finds that "point by point" exclusivity must carry the same major burden for probative evidence. Herein, it is a matter of record that Hostlers did not do the disputed work prior to 1983. However, the Organization has not demonstrated that only Electricians had done the disputed work for numerous years as was demonstrated in Public Law Board 3502 (Case No. 4, Award No. 6). A careful review by this Board finds no statement by the Organization as to the number of years the disputed work was performed. It fails to find an unqualified statement on the property of exclusivity by Electrical workers. The letters from the Carrier's Master Mechanic, the Local Chairman UTU-E and arguments on the property suggest that such work was done by mechanical forces (electricians and machinists). This Board cannot conclude from the record that the connecting and disconnecting of jumper cables and load testing was continuously, traditionally, historically and exclusively performed by Electrical Workers at Rocky Mount. Finding insufficient evidence to carry the burden of proof, the Board must therefore deny the 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 20th day of April 1988.

