

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION

Award No. 11513  
Docket No. 11377-T  
88-2-87-2-12

The Second Division consisted of the regular members and in addition Referee James Mason when award was rendered.

PARTIES TO DISPUTE: (International Association of Machinists and  
( Aerospace Workers  
( Southern Pacific Transportation Company  
( Western Lines)

STATEMENT OF CLAIM:

1. That the Carrier on February 26, 1986, deprived Machinist Donald Yee (hereinafter referred to as Claimant) of work that was contractually his by improperly assigning Boilermaker Johnson the task of removing two (2) broken studs from side frame of Caterpillar #SP0358-D5. Thereby violating the provisions of Rule 40 of controlling Agreement.

2. That the Carrier be ordered to compensate Claimant two (2) hours compensation at the Machinist straight time rate during the period covered by this dispute.

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 employees 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.

The case record reflects that the International Brotherhood of Boilermakers and Blacksmiths was duly notified of the pendency of this dispute and afforded an opportunity to file a submission, but did not do so.

The operative facts of this case are not really in dispute. On February 26, 1986, a Boilermaker-Welder was assigned to work on a caterpillar tractor at Carrier's System Maintenance of Way Repair facility at Oakland, California. In the performance of his work, the Boilermaker-Welder was required to remove two broken "fastening devices" from the frame of the tractor. We use the term "fastening devices" because they have variously been called "studs," "capscrews" and "bolts" by the parties and it is the removal of these fastening devices which is the basis of the penalty claim here involved.

During the on-property handling of the dispute, Organization refers to these devices at various times as studs, capscrews and bolts. Carrier uses only the term bolts.

The Organization argues that the removal of studs accrues exclusively to Machinists because such removal requires "skilled drilling and reaming" and, therefore, Carrier's use of the Boilermaker, who the Organization says "are not classified as mechanics," violated Rules 14 and 40 of the Agreement. It further contends that the Claimant Machinist who was on duty and under pay at the time is entitled to (two) 2 hours pay as a penalty for this alleged violation. No rule is cited in support of this penalty payment contention.

Carrier avers that the removal of broken bolts is not the exclusive function of any particular craft; that in this case the removal of the broken bolts was part of the repair work being performed by the Boilermaker; that Claimant suffered no monetary loss; that there is no Rule support for the penalty claim as made and that the provisions of Rule 38(c) of the Agreement have been violated by the Organization in that there was no rejection of the Shop Superintendent's denial properly presented to Carrier during the appeals process.

Our review of the Rules which have been cited during the on-property handling of this case and our consideration of the presentation of the parties to the Board leads us to the conclusion that there has been no compensable violation of any Agreement Rule. The Assignment of Work Rule (14) and the Classification of Work Rule (40) do not by their language reserve the type of work here involved exclusively to Machinists. There is no substantive proof in the case record which would support the argument that none but Machinist has consistently performed this type of work. The Organization, as the moving party, has the burden of advancing such proof, and, in this case, it has failed to meet the burden. The claim must be denied.

Because our decision as expressed above effectively disposes of this case, it is not necessary that we address the other arguments and contentions advanced by the parties.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
Nancy J. Beyer - Executive Secretary

Dated at Chicago, Illinois, this 13th day of July 1988.