

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

(International Association of Machinists and
(Aerospace Workers
PARTIES TO DISPUTE: (
(CSX Transportation, Inc. (The Baltimore and Ohio
(Railroad Company)

STATEMENT OF CLAIM:

1. That the Baltimore and Ohio Railroad Company violated the current Agreement, especially Rule 57 Shop Crafts Agreement, when they wrongfully assigned Machinists' work to the Boilermakers, work of building a table of hydraulic and pneumatic tools and machinery to perform certain work accruing to the Machinists' Craft.

2. That the Carrier immediately remove the hydraulic and pneumatic table from the Boilermakers Shop and place that table in the Machine Shop or Truck Shop under the jurisdiction of the Machinists who have the contractual right to operate machinery in accordance with Rule 57 of the Controlling Agreement.

3. The Carrier compensate Machinists K. L. Stutler and H. E. Litten eight (8) hours each at the pro-rata rate of pay beginning November 12, 1984 and continuing for as long as the violation is in force, on account of the Carrier violating the Controlling Agreement, especially Rule 57, when the Carrier assigned Boilermakers in the building of a pneumatic and hydraulic table at the Carrier's Locomotive Shop, Cumberland, Maryland.

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 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.

The Claim at bar developed after Carrier utilized Boilermakers on November 12, 1984 in building a pneumatic and hydraulic table. The Organization alleged a violation of Rule 57 (Classification of Work) which it argued

secured the building and operating of machinery to Machinists. By letter of January 2, 1985 it further requested that the table be removed from the Boilermaker Shop and place it in the Machine Shop or Truck Shop under the jurisdiction of the Machinists.

The Carrier denied the Claim arguing that the job of building the table was directly assigned along craft lines. It noted that Boilermakers were using the braking machine in the regular performance of their work as they had historically done. By letter of March 15, 1985, the Carrier's highest appeals officer refused the Claim on relocating the machine. In its denial, the Carrier noted that the Organization failed to handle the Claim under the jurisdictional disputes procedures in effect on the property.

The Boilermakers filed a Third Party Submission declaring that the work in dispute was Boilermaker's work and did not belong by Agreement Rule 57 or practice to the Machinists. They also pointed to the jurisdictional dispute procedures.

A careful review of the record establishes that the Organization has offered no probative evidence to support its Claim. Further, the Organization requested on the property and before this Board that the table be moved. This Board has no authority to issue declaratory judgments (Second Division Awards 11135, 10954, 10708).

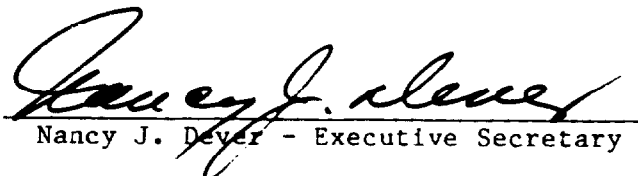
Considering the full record, this Board will dismiss the Claim. Dismissal is mandated when this Board is confronted with a jurisdictional dispute and dispute resolution procedures have not been complied with (Second Division Awards 11486, 11364, 11229, 11070, 11035). Appendix 10 on Jurisdictional Dispute Procedures clearly applies to these parties and requires that when a dispute involving jurisdiction of work arises between crafts, the Organizations will resolve the dispute. Herein, there is no evidence that the Organization followed Appendix 10. Accordingly, the Claim must be dismissed.

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 22nd day of February 1989.