

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

PARTIES TO DISPUTE: (Sheet Metal Workers International Association
(CSX Transportation, Inc.
(Former L & N Railroad)

STATEMENT OF CLAIM:

1. On June 6, 1989, June 7, 1989, June 12, 1989, June 20, 1989, June 21, 1989, June 24, 1989 and June 25, 1989 CSX Transportation assigned other than Sheet Metal Workers to perform Sheet Metal Workers' work at Evansville, Indiana, which the Sheet Metal Workers had performed for years.

2. That the Carrier be ordered to pay S. A. Will, I.D. 183066, of Evansville, Indiana, thirty minutes at straight time rate of pay on each claim in view of the fact that other than Sheet Metal Workers connected or disconnected locomotive multiple unit hoses.

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 International Association of Machinists and Aerospace Workers, the International Brotherhood of Electrical Workers and the United Transportation Union were advised of the pendency of this dispute. The International Association of Machinists and Aerospace Workers and the International Brotherhood of Electrical Workers filed a response in this dispute; the United Transportation Union did not file a response.

In this dispute, the Organization claims that the work of connecting and disconnecting locomotive multiple unit ("MU") hoses was improperly assigned to employees who were not Sheet Metal Workers at the Carrier's Evansville, Indiana, facility. When so claiming, it mainly relies upon "Rule 87 - Classification of Work," which reads as follows:

"Sheet Metal Workers' work shall consist of tinning, coppersmithing and pipefitting in shops, yards, buildings, including general office buildings, and on passenger coaches and engines of all kinds; the building, erecting, assembling, installing, dismantling, and maintaining parts made of sheet copper, brass, tin, zinc, white metal, lead, black, planished, pickled and galvanized iron of 10 gauge and lighter, including brazing, soldering, cutting, threading, brazing, connecting and disconnecting of air, water, gas, oil and steam pipes; the operation of babbit fires, oxyacetylene, thermit and electric welding on work generally recognized as Sheet Metal Workers' work, and all other work generally recognized as Sheet Metal Workers work."

In effect, for purposes of applying Rule 87, the Organization contends that a rubber hose is equivalent to a pipe. Stated differently, the Organization contends that "pipes" encompasses "hoses" and that the two are synonymous. Moreover, the Organization suggests that the phrase in Rule 87 which reads "...and all other work generally recognized as Sheet Metal Workers' work..." is also applicable. When so asserting, it mainly relies upon the statement signed by thirty-six (36) other craft employees. In effect, the Organization claims, this statement shows that Sheet Metal Workers have performed the work in the past. In addition, noting that the Organization has provided past Awards to support its position, prior claims for the type of work claimed here were decided against the Carrier who was required to pay the claims.

The Carrier, for its part also relies upon past Awards and its construction of Rule 87. It mainly contends that the coupling and uncoupling of air hoses has not been exclusively assigned to Sheet Metal Workers. It points to the Rule itself and emphasizes that it does not specifically encompass air hoses. Therefore, it submits that, for the Claim to prevail, the Organization must show that by tradition, custom and practice it has performed the work on a system-wide basis (because the Agreement is system-wide).

Although the Organization contentions with respect to the language of Rule 87 (the distinction between "hose" and "pipes") is not unreasonable, it is not consistent with the interpretation that past Awards have placed upon the language relied upon by the Organization. Moreover while it may be true that Sheet Metal Workers have connected and disconnected MU air hoses, it is also true, from our review of the evidence, that Sheet Metal Workers have not performed it to the exclusion of other crafts on a system-wide basis.

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Award No. 12061
Docket No. 11920-T
91-2-90-2-64

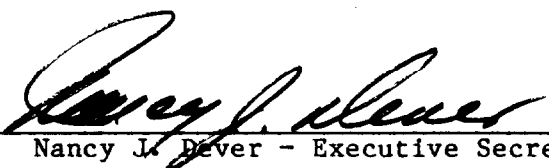
In any event, the issue in dispute has been settled by past Second Division Awards 11136 and 10779. Therefore, the principle of stare decisis applies and the Claim is denied.

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 5th day of June 1991.

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