

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 12073
Docket No. 11588-T
91-2-88-2-66

The Second Division consisted of the regular members and in addition Referee Edward L. Suntrup when award was rendered.

PARTIES TO DISPUTE: (Sheet Metal Workers International Association
(Chicago and North Western Transportation Company

STATEMENT OF CLAIM:

The Chicago and North Western Transportation Company, hereinafter referred to as the Carrier, violated the provisions of the current and controlling agreement, in particular Rules 53 and 103, when they improperly assigned Machinist Larry Nyc to weld on hinges and install a door fabricated by the Carrier's Sheet Metal Workers, on locomotive engine numbered 1218 at the Carrier's M-19A Diesel Locomotive Repair facility, on April 10, 1987.

THAT ACCORDINGLY THE CARRIER BE ORDERED TO:

Compensate Sheet Metal Worker/Welder David Rice in the amount of eight (8) hours pay at the pro rata rate, for the above violation.

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.

The claim filed by the Organization stems from the Carrier's assignment of a Machinist to weld the hinges on a locomotive cab door in preparation for the installation of the door on the locomotive. The Organization alleges that the assignment was improper because this was Sheet Metal Workers' work. The applicable Rules read as follows:

"RULE 53

Performing Work - Who

Mechanics' work as defined in the special rules of each craft will be performed by mechanics, regular and helper apprentices to the respective crafts."

"RULE 103

Sheet Metal Workers Work

Sheet Metal Workers' work shall consist of tinning, copper-smithing, and pipefitting in shops, yards, and buildings; 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 (present practice between Sheet Metal Workers and Boilermakers to continue relative to gauge of iron) including brazing, soldering, tinning, leading, and babbitt the bending, fitting, cutting, threading, brazing, connecting, and disconnecting of air, water, gas, oil, and steam pipes, the operation of pipe threading machines; oxy-acetylene, thermit, and electric welding on work generally recognized as Sheet Metal Workers' work, and all other work generally recognized as Sheet Metal Workers' work."

Absent resolution of this Claim on the property it was docketed before this Board for final adjudication. The Board advised the International Association of Machinists and Aerospace Workers of its right to submit a Third-Party Submission in accordance with Section 3, First (j) of the Railway Labor Act. A Third-Party Submission by that Organization is part of the record. The Organization filing the claim was permitted to respond. It chose not to do so.

The facts of this case are that a Sheet Metal Worker employed at the Carrier's California Avenue Facility was used to fabricate the skin for a locomotive cab door out of 14-gauge metal. The door assembly was then shipped to the Carrier's M-19A Locomotive Shop where it was installed on Engine No. 1218 by a Carman assisted by a Machinist. The Machinist's work included welding hinges on the door. It is uncontested that the door frame is made of channel iron which is heavier than 10-gauge metal, and that the hinges themselves were also heavier than 10-gauge metal.

The crux of the Organization's argument is that since its craft was assigned to the fabrication of the door in question, due to Agreement requirements with regard to the gauge of metal, then this craft should also have been assigned to weld the hinges on the door. The Organization did not object to the Carmen being assigned to the installation of the door. This entire dispute centers upon the actions by the Machinist.

The Carrier rejected the Organization's claim by stating that neither Rules 53 nor 103 of the applicable Agreement were violated since these Rules do not assign the welding of heavier than 10-gauge metal to the craft filing the claim. If any craft had an Agreement right to the work, it would have more appropriately been the Boilermakers craft according to the Carrier, in view of the specific language of that craft's Agreement Rule 60 which assigns to them metal of "16 gauge or higher." Further, the Carrier objected to the Organization's claim for eight (8) hours because the Claimant lost no pay because of the assignment in question since he had remained fully employed.

After reviewing the record the Board must conclude that the Organization's claim is without merit. Rule 103 assigns to the Sheet Metal Workers work with metal that is "10-gauge and lighter." Rule 103 only assigns to the Sheet Metal Workers work with metal that is "10-gauge or lighter" as a matter of contractual right. Additionally, although the Organization disputes the Carrier's position that Machinist's have performed the work of the type as a matter of past practice, the Sheet Metal Workers have failed to offer any evidentiary support for this assertion.

In summary, neither Rules 53 nor 103 of the applicable Agreement assign the aggrieved work to the Organization. This Board has consistently held that the burden is on the Organization to prove by competent evidence that work it claims to have been reserved to its members be reserved to them historically, traditionally, and customarily on system-wide basis (Second Division Awards 5525, 5921). That burden has not been adequately met here.

On the record as a whole the Board must deny the claim.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: 
Nancy J. Bever - Executive Secretary

Dated at Chicago, Illinois, this 10th day of July 1991.