

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 12601
Docket No. 12470-T
93-2-91-2-275

The Second Division consisted of the regular members and in addition Referee John C. Fletcher when award was rendered.

PARTIES TO DISPUTE: (Brotherhood Railway Carmen/Division TCU
(
(CSX Transportation, Inc. (former Chesapeake
(& Ohio Railway Company)

STATEMENT OF CLAIM:

- "1. That the Chesapeake & Ohio Railroad Company (CSX Transportation, Inc.) (hereinafter referred to as 'carrier') violated the controlling Shop Crafts Agreement, specifically Rule 154, when the carrier allowed three members of the Sheet Metal Workers Craft to perform Painters' work on April 19, 1990 when members of the craft were available, willing and qualified to perform that work.
2. Accordingly, the carrier be ordered to additionally compensate Painters T. Miller, D. Ramey and T. Kearns (hereinafter referred to as 'claimants') for four (4) hours each at the applicable time and one-half rate for said 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 employe 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 Sheet Metal Workers' International Association was advised of the pendency of this dispute, but did not file a Submission with the Board.

This claim involves an allegation of the Organization that its Agreement was violated when three Sheet Metal Workers painted a winch guard cage they had fabricated and installed in Carrier's Raceland, Kentucky, Car Shop. Initially the Claim was denied with an acknowledgment that Sheet Metal Workers did in fact install the winch guard cage on the West end of Track No. 5 of the Erecting Shop on April 19, 1990, but that they "did not paint said cages." This denial was refuted by an eye witness statement indicating that the Sheet Metal Workers were observed painting the cages. Carrier, then altered its denial, stating that historically Sheet Metal Workers had painted guard cages they had fabricated to prevent corrosion.

Carrier utilizes a large number of Carman Painters in its Raceland Car Shop. It would seem that painting work occurring at that facility would be assigned to Carman Painters. Carrier has not established, with sufficient evidence, that Sheet Metal Workers have historically painted guard cages, as it argued. Accordingly, the Claim will be sustained.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Catherine Loughrin
Catherine Loughrin Interim Secretary to the Board

Dated at Chicago, Illinois, this 27th day of October 1993.