

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 12917
Docket No. 12801
95-2-93-2-216

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

PARTIES TO DISPUTE: (Sheet Metal Workers' International
(Association
(CSX Transportation, Inc. (former Chesapeake
(and Ohio Railway Company)

STATEMENT OF CLAIM:

- "1. That the Carrier, under the current working agreement between the Sheet Metal Workers and the Carrier, violated Rule #126 of the agreement.
2. That accordingly, the Carrier be ordered to compensate the employee G. R. Robinson for eight (8) hours pay at the straight time rate."

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 employee 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 was advised of the pendency of this dispute, but chose not to file a Submission with the Board.

This claim for eight hours compensation at the straight time rate of pay arises in connection with a Sheet Metal Worker having been assigned on November 1, 1991 to run several eight feet in length pieces of one-inch air line pipe in the Tool Room at the Huntington (West Virginia) Shop. It is the contention of the Organization that instead of calling a second Sheet Metal Worker to assist with the work that the Carrier had a Machinist perform such task in violation of Rule 126, the Classification of Work Rule of the Agreement.

The Carrier says that there was no violation of Agreement Rules. It says, as it did in denial of the claim on the property, that investigation of the circumstances related to the claim revealed that a Machinist who was on duty in the shop provided incidental assistance to the Sheet Metal Worker of his own volition and that the Machinist did not perform any repair work or any other work reserved to Sheet Metal Workers by their Classification of Work Rule. The Carrier says that the Machinist voluntarily helped by holding a short length of the pipe in the air as the Sheet Metal Worker positioned it into place.

The Organization asserts that the Machinist had performed more than the so-called incidental assistance mentioned by the Carrier. However, the Organization offers no supportive proof for such a contention in meeting a necessary burden of proof for its claim that the circumstances were other than as described by the Carrier or that the work in question was done with the consent or knowledge of a Carrier supervisory official. Nor is it shown that it was the practice for more than one employee to be assigned to perform work of the nature here in question, much less that the Sheet Metal Worker who had been assigned to perform the work had requested of the Carrier that a Sheet Metal Worker be assigned to assist him because of the extent of work involved.

Under the circumstances shown in this record, and in keeping with numerous past Awards to the effect that if the work complained of was performed without the instruction, consent, or knowledge of the Carrier the claim should be denied, it follows that it may not be held that the Carrier violated Rule 126 as claimed.

AWARD

Claim denied.

Form 1
Page 3

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ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 16th day of August 1995.