

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 13039
Docket No. 12988
96-2-95-2-12

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. (former
(Baltimore And Ohio Railroad Company)

STATEMENT OF CLAIM:

- "1. That, in violation of the current agreement CSXT (former Baltimore and Ohio Railroad Company arbitrarily and capriciously assigned work that has by agreement, custom, assignment and historically been performed by the Machinists Craft to other than Machinists.
2. That, accordingly, CSXT be ordered to cease and desist the practice of assigning the inspection of air compressors and turbochargers to crafts other than Machinists."

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 Sheet Metal Workers' International Association was advised of the pendency of this dispute and did file a Submission with the Board.

The dispute in this case involves the determination of whether new work performed belongs to Machinists as claimed herein, or to any craft as argued by the Carrier. There is no argument over these facts. The Vibration Analyzer is a computer test that performs vibration readings on locomotives. It was first introduced in February 1993 and was assigned to newly trained Machinists to perform. In April the Carrier permitted Sheet Metal Workers to perform the test. The instant claim was filed by letter dated May 28, 1993.

The Organization argues that the work performed is encompassed by the Machinists' Classification of Work Rule which specifically includes inspection and states: "(j) Engine inspecting, including all parts of engines and tenders." According to the Organization, the new Vibration Analyzer is only a tool that evaluates the air compressor and turbocharger components of the engine. The Organization asserts that such work of testing or inspecting is not within the Sheet Metal Workers' Classification of Work Rule. The Organization maintains that its craft has historically and exclusively performed all inspections on air compressors and turbochargers at the Cumberland Locomotive Facility. It notes that the Carrier's news video states that Machinists will be using the new equipment.

To further support its claim the Organization argues that this disputed work is performed by Machinists at all other points on the system. It submits numerous signed statements of support from the Locomotive Shops at Corbin, Kentucky, and Waycross, Georgia. These statements attest to exclusivity and are also signed by other crafts including Sheet Metal Workers. The Organization includes a bulletin for Machinist Planner positions to "perform vibration analysis and air test on units in case inspector not available."

The Carrier denies the claim as procedurally defective and lacking in merit. On procedural grounds, the Carrier argues that the claim or grievance is beyond the Board's jurisdiction in that it requests injunctive relief. On the merits, the Carrier argues that the disputed work is new work and belongs to no particular craft. As stated by Carrier's Plant Manager:

"The vibration analyzer is a computer operated system. One part, the hardware and drive system, are housed in the Diagnostic Center. The other part is a hand held computer, that can be taken to the field. There are two magnetic lines that adhere to the component being analyzed. The craftsman keys in the proper coding on the computer and the computer records the vibration readings. When the analysis is complete the hand held computer is down loaded into the main terminal."

The Carrier denies the work involves the use of a tool belonging to Machinists. It denies exclusivity, arguing that the Vibration Analyzer was not performed by anyone in the past, due to the fact that it was not utilized. The fact that Machinists performed the work for a short time does not establish it as Machinist's work. The Carrier argues that numerous employees of various crafts have been trained to perform this work.

After full consideration, the Board finds that the work belongs to Machinists. This is not the same as Awards which focus on end of train devices or computer inputting and keyboarding. Downloading such information into the computer or keying a hand held computer may be shared, but the use of the tool to inspect an engine is not. This record demonstrates that the hand held device is a tool used to inspect engines, specifically air compressors and turbochargers. Prior inspection was done by Machinists. Inspecting engines is covered in its Classification of Work Rule. While the tool may be new, the work performed with the tool is inspecting. To argue that the tool does the inspecting (analyzing and recording results) not the Machinist, so therefore it can be assigned to other crafts, strays too far from the facts. To argue, as the Carrier does, that this work involves operating a computer, not working on an engine and, therefore, is not an inspection must be rejected by this Board. This computer tool is inspecting the engine. It is a new way to inspect an engine. However, the inspection of engines belongs to Machinists. This new device is for the direct purpose of inspecting the parts of an engine and, therefore, is covered by the Agreement. Part 1 of the claim must be sustained.

The Board may not recognize Part 2 of the claim. It is well established that this Board may not order the Carrier to "cease and desist." There is no authority granted under the Railway Labor Act to order the Carrier to assign this work to Machinists as requested. That part of the claim is denied. As there is no request for compensation, none may be considered herein and injunctive relief requested is beyond the jurisdiction of this Board.

AWARD

Claim sustained in accordance with the Findings.

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ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 21st day of August 1996.