

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

**Award No. 13248
Docket No. 13186-T
98-2-96-2-89**

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

**(Brotherhood Railway Carmen, Division of
(Transportation Communications International Union
PARTIES TO DISPUTE: (
(CSX Transportation, Inc. (former Chesapeake and
(Ohio Railway Company)**

STATEMENT OF CLAIM:

"Claim of the Committee of the Union that:

- 1. That the Chesapeake and Ohio Railroad Company (CSX Transportation, Inc., (hereinafter referred to as 'carrier') violated the controlling Shop Crafts Agreement specifically Rule 154 (a) and (b), when the carrier assigned other than carmen painters to perform work exclusively reserved to the carmen painters craft.**
- 2. Accordingly, the carrier be instructed to pay carmen W. R. Thompson, ID #628414 and P. C. Gerlach, ID #094355 (Hereinafter referred to as 'claimant') eight hours at the applicable carman overtime 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 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 were given due notice of hearing thereon.

As Third Party in Interest, the International Association of Machinists and Aerospace Workers was advised of the pendency of this dispute, but it chose not to file a Submission with the Board.

This is another in a series of cases involving the application of Article V, Section 1 of the Incidental Work Rule. The Organization claims that the Carrier assigned Machinists to paint lockers and cabinets in the Truck and Traction Motor Shops at its Huntington, West Virginia, Locomotive Shop. The Organization asserts that one Machinist painted for a period of four hours and the other for his entire eight hour tour of duty.

The Carrier contends that the painting involved was a "simple task" permissible under Article V of the Incidental Work Rule.

The Board finds from the evidence produced on the property that the disputed painting work is reserved to members of the Carmen craft. However, we also find that the work itself may properly be classified as a "simple task" which did not require special tools or training. In so holding, the Board notes that the Organization has the burden to prove that the disputed work could not be construed as a "simple task." There was no evidence produced on the property to refute the Carrier's assertion in this respect.

With respect to the amount of time that it took to perform the painting, the Organization has not met its burden to prove that the work took more than two hours to perform. In this respect, the Board notes the written statement of the Carrier's Foreman dated October 15, 1995. He stated that the two Machinists were assigned to paint the top and sides of a storage rack which was approximately three and one-half feet tall, three feet wide and nine feet long and that it took "less than two hours to complete."

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AWARD

Claim denied.

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 30th day of March 1998.