

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

**Award No. 13385
Docket No. 13279-T
99-2-97-2-49**

The Second Division consisted of the regular members and in addition Referee Edward L. Suntrup 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 boilermakers to perform work exclusively reserved to the carman craft.**
- 2. Accordingly, the carrier be instructed to pay carman D.D. Icenhower, ID #624787, (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 Brotherhood of Boilermakers and Blacksmiths was advised of the pendency of this dispute, but it chose not to file a Submission with the Board.

A claim was filed by the Organization on behalf of the Claimant for the date of March 15, 1996 on grounds that the Carrier had violated Rule 154 of the Shop Crafts Agreement when other than Carmen were assigned to apply cab doors, door thresholds, window trim, and floor trim on CSXT 8211 during the third shift at the Huntington Locomotive Shop. The claim was denied by the Plant Manager on grounds that the work assigned to the Boilermaker took approximately two hours to finish, which was "... within the guidelines of the incidental work/simple task rule. . . ." The latter was countered by further appeal by the Organization, which included a statement by the Boilermaker who did the March 15, 1996 work wherein the latter states the following:

"To Whom It May Concern:

On March 15, 1996 during the third shift at the Huntington Locomotive Shop I was assigned to apply locomotive cab doors, door thresholds, window trim, and floor trim on CSXT 8211. The performance of these tasks consumed my entire eight (8) hour tour-of-duty. Historically, these duties have been performed by Carmen at the Huntington Locomotive Shop."

Thereafter, upon continuing declination of the claim the Carrier states, on property, that this statement by the Boilermaker who did the work on March 15, 1996 "... contradicts the sign-off sheets that were provided to (the Organization) with the claim declination. . . ."

A review of the full record before the Board fails to reveal any sign-off sheets to contradict the statement by the Boilermaker although there are, inexplicably, data-sheets that were apparently provided by the Carrier to the Organization which deal with a date other than March 15, 1996. Obviously, such data-sheets have no evidentiary value pertinent to the instant case. The Board further observes that while this case appears to deal with a work jurisdiction dispute between two Shop Craft Organizations,

the International Brotherhood of Boilermakers and Blacksmiths, as a Third Party to the instant dispute, chose not to file a Submission with the Board.

Rule 154 of the Agreement states, in pertinent part, that "... it is understood that present practice in the performance of work between the Carmen and Boilermakers will continue. ..."

There is sufficient evidence of record to warrant reasonable conclusion that supervision violated this Rule on March 15, 1996 when it assigned work to Boilermakers which, under the Rule, was contrary to ongoing practice. The Board will sustain the claim. In accordance with the recent ruling by the Board in Second Division Award 13274, which deals with matters somewhat comparable to those involving the instant case, the Board will sustain the claim for eight hours' pay, but at the straight time rate.

AWARD

Claim sustained in accordance with the Findings.

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 12th day of April 1999.