

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13567

Docket No. 13391

00-2-98-2-77

The Second Division consisted of the regular members and in addition Referee Margo R. Newman when award was rendered.

(International Association of Machinists and
(Aerospace Workers

PARTIES TO DISPUTE: (

(Consolidated Rail Corporation

STATEMENT OF CLAIM:

- “1. The Consolidated Rail Corporation is in violation of the Claimant’s prior rights “019” Seniority District, the Implementing Agreement of March 16, 1976, Rule Nos. 2, 3 and 4, and Appendix “C” of the IAM-Conrail May 1, 1979 Controlling Agreement and other Rules of that Agreement including Past Practice and Customs, and also, “The Agreement dated July 13, 1987, between Consolidated Rail Corporation and its employees represented by the International Association of Machinists and Aerospace Workers regarding the transfer of certain air brake and tool room work from Hollidaysburg Car Shop to the Juniata Locomotive Shop.
2. Accordingly, the claimant, J. Ardrey, J. Winston, D. Messner, F. Kratzer, J. Plummer, T. Reindl, and W. Beckel are entitled to the remedy as requested. The Claimants be made whole for any loss suffered including overtime as well as eight (8) hours pay per day to be divided equally between each of them commencing from May 22, 1996.”

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.

By this claim the Organization protests the Carrier's assignment of reconditioning and rebuilding air brake cylinder work to a newly bulletined Machinist position in Conway, Pennsylvania, within Seniority District 12 as a violation of the prior rights of the Claimants, Machinists working at the Juniata Locomotive Shop within Seniority District 19.

The Organization argues that such work was reserved to District 19 Machinists under the July 13, 1987 Agreement that transferred work from the Hollidaysburg Car Shop to the Juniata Locomotive Shop, and subsequent supplements thereto. That Agreement, in pertinent part, transfers Air Brake and Tool Room work from Hollidaysburg to Juniata, attaching a list of 39 positions (including repairing and testing AB cylinders, piston assemblies and WABCO PAC assemblies), which the parties agreed would be transferred. It also states:

- “1. As the above Machinists' work is transferred, the 39 positions to be created at Juniata to perform this work will be bulletined as prior right Car Shops positions.
2. Each prior right Car Shop Machinist awarded such position shall, on the effective date of the award, have his prior right transferred to the Locomotive Shops.
3. Following each initial award, the position will thereafter be treated as a prior right Locomotive Shops position.”

The Organization asserts that this Agreement reserves the work of repairing WABCO brake cylinders to the Juniata location, and to Seniority District 19 machinists with prior rights to that work. It contends that the Carrier violated those prior rights

by transferring some of that work outside the Seniority District, bulletining it, and assigning it to a Machinist having no prior rights to the work. The Organization requests compensation for the Claimants for the time spent on such lost work since its transfer.

The Carrier contends that it exercised its inherent management right to utilize its manpower and equipment throughout its system to best fulfill its operational needs by refurbishing the Conway facility to better utilize it by enabling it to augment the work of reconditioning air brake cylinders being performed at Juniata. It argues that nothing within the July 13, 1987 Agreement reserves the work of repairing WABCO brake cylinders to the seven Claimants or to the Juniata location. The Carrier continually asserted on the property that the work being performed at Conway was different from that being done at Juniata.

We have carefully reviewed the record in this case. We first note that the procedural issues raised by the parties concerning an improper amendment to the claim, the application of Section 706 of the Northeast Rail Service Act of 1981, as well as the alleged failure to properly prepare a Joint Submission in accordance with Rules 4-P-1(d) are without merit. We are left with a lengthy record containing contentions by the Organization that this type of work must be performed within Seniority District 19 and that the instant assignment of repair work of this nature outside the Seniority District is a violation of the prior rights of the Claimants. However, the Carrier continually asserted on the property that the work performed at Conway was not the same work as at Juniata, and there was no showing that any of the Claimants lost their positions or hours of work as a result of the addition of the position at Conway. The Organization was unable to refute this critical fact.

The July 13, 1987 Agreement set forth the prior rights of the Claimants to specifically transferred work from Hollidaysburg to Juniata. The Organization has failed to sustain its burden of proving that the specific work listed in that Agreement was again transferred, or that the Agreement obligated the Carrier to performance of all similar type of work in the future to that location. The Carrier is correct that it has the right to exercise its managerial prerogative to utilize its manpower and equipment as it best sees fit absent a specific limitation of that power. We are unable to find that the July 13, 1987 Agreement is such a limitation on Management's right to augment the type of work being performed at Juniata at a different location, even if it outside the Seniority District of prior rights employees. Absent a showing of the loss of positions protected

by the Agreement and held by the Claimants as a result of the creation of the position at Conway, we must deny the claim.

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 14th day of November, 2000.