

NATIONAL ~~RAILROAD~~ ADJUSTMENT BOARD

~~THIRD~~ DIVISION

Award Number 20703
Docket Number MS-20734

Francis X. Quinn, Referee

PASTIES TO DISPUTE: (United **Steelworkers** of America
(The Lake Terminal **Railroad** Company

STATEMENT OF CLAIM: Please be advised that I wish to file an **ex parte** submission to the Board on an issue which has been discussed through the various stages of the grievance procedure, up to and including the Director of Labor Relations of the Lake Terminal Railroad Company, Mr. E. 3. Parkinson.

The issue is designated as Claim **M.W.** 6-73. It concerns a Claim that equipment belonging **to** the Maintenance of Way Department is **being operated** by employees of the Car Department.

OPINION OF BOARD: Because of a breakdown of the Car Shop Car Crane on July 23, 24, 25, 26, 27 and 30, 1973, the Carrier utilized a Speedswing Machine assigned to the Maintenance of Way Department to perform Car Department work in **the Car Shop.**

The **Speedswing** Machine, on above dates, was operated by Claimant, a qualified operator of the Maintenance of Way Department, on the 7:00 A.M. to 3:00 P.M. shift. On the 3:00 P.M. to **11:00** P.M. shift the **Speedswing** Machine was operated by a Car Repairman of the Car Repair Department.

Petitioner contends the operating of the **Speedswing** Machine is work by mutual agreement exclusively assigned to **employees** of the Maintenance of Way Department regardless of the character of work performed. On the other hand, Carrier contends the assignment of a Car Repairman to operate the **Speedswing** Machine when performing work of the Car Repair Department was proper.

The Board has consistently followed a well established principle : that the character of the work performed by a machine would determine the craft from which its operator was drawn. See Awards 4546, 4547, 13517, 14004, 19038, 19542 and Second Division Awards 244, 1829, 3405.

Since car repair work under **Rule** 14, Section 4 (d) was performed, we feel it is logical that operation of the Speedswing Machine in connection with such work also belonged to Car Department forces and the assignment of an **employee** therefrom was proper. We deny the claim.

Notice was given to the United Steelworkers of America, AFL-CIO District 28 as representative of Third Party - Carmen. This Board has fully considered their contentions.

FINDINGS: The Third **Division** of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the **Employees** involved in this dispute are respectively **Carrier and Employees** within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was **not** violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Paulson
Executive Secretary

Dated at Chicago, **Illinois**, this 17th day of April 1975.