

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number **22627**
Docket Number m-22366

James F. **Scearce**, Referee

PARTIES TO DISPUTE: ((Brotherhood of Maintenance of Way **Employees**
(The Baltimore and Ohio Railroad Company

STATEMENT OF CLAIM: "Claim of the System **Committee** of the Brotherhood that:

(1) The Agreement was violated when other than **B&B** forces were used to weld rails and braces to stands which had theretofore been installed on and anchored to the floor of the **Cumberland** Diesel Shop by **B&B** forces (System File **CUM-655/2-MG-1705**).

(2) **As** a consequence of the aforesaid violation, Carpenters R. G. Kerns (**ID#1117196**) and W. W. **Hott** (**ID# 1105356**) shall each be allowed 56 hours of pay at their respective straight-time rates."

OPINION OF BOARD: The dispute arises here over the **method** by which **the Carrier** had a rack for traction motors constructed and installed at the **Cumberland** (Md) Diesel Shop. Such work consisted of fabrication of **some** 34 stands 50 feet in length atop which rail was welded. Thereafter, the complete units were secured in position by drilling and bolting the stands to the floor. Work relative to fabrication of the stands (made from beams and angle iron) and thereafter welding the rail to the structures was performed by Shop Craft forces (Boilermakers). Work relative to drilling and securing the stand to the floor was performed by **employees** represented by the Organization (**BMWE**). The Claimants herein contend the work of fabricating the stands and their positioning constitutes an alteration to the structure and, as such work protected by the Agreement, specifically **Rule 1(c)**:

"(c) Bridge, Building and Structural Work.

Carpentry, painting, glazing, tinning, roofing, plastering, bricklaying, paving, masonry and concreting required in the construction and maintenance of railroad structures, other than tunnels, shall be performed by the B&B forces. Such work in tunnels and all concreting by the **gunite method** shall be performed by tunnel forces."

Since the Carrier has demonstrated no exception to this **Rule**, per the Organization, it is controlling. Rebuttal **was** made by the Shop Craft organization involved (Boilermakers) asserting jurisdiction **under** its **Rule 71**:

"Classification of Work

Rule 71. Boilermakers' work shall consist of laying **out**, cutting apart, building or repairing--laying out and fitting any sheet iron or sheet steel work made of 16 gauge or heavier--I-beam, Channel iron, angle iron and T-iron **work;--oxyacetylene, thermit** and electric welding--and all other work generally recognized as Boilermakers' work."

The Carrier contends the work was properly divided and assigned as between the two organizations.

We are satisfied the work was properly accomplished principally based upon the sequence of its **executiion**. Essentially, the stands **were** fabricated first and then affixed to the building. It is noted that while the stands **were apparently** fabricated within the shop craft work area, the placement of the rail upon the stands took place at the point where such stands were to be permanently installed; while this **may** have contributed to the assertions of jurisdiction by the Organization, it does not alter the conclusion herein. The record indicates that the stands were fabricated first and thereafter emplaced. Had the stands been "built-up" from the floor, a more persuasive **argument** might be **made** concerning the structural modification. Under the circumstances, we find no basis to sustain the Organization's claim herein.

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;

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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: *U. W. Pauls*
Executive Secretary

Dated at Chicago, Illinois, this **9th** day of **November 1979.**