

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 30522
Docket No. MW-29929
94-3-91-3-309

The Third Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(CSX Transportation, Inc. (former Chesapeake
(and Ohio Railway Company (Southern Region))

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

- (1) The Agreement was violated when the Carrier assigned Blacksmiths instead of Maintenance of Way material reclaimers to perform the disassembling of second-hand frogs at the Barboursville Shops beginning October 26, 1989 and continuing thereafter [System File C-TC-5036/12(90-139) COS].
- (2) As a consequence of the aforesaid violation, Maintenance of Way Employees J. R. Jarrett and W. W. Clagg shall each be allowed the difference between the laborer's rate of pay and the assistant foreman's rate of pay for all hours expended by the Blacksmiths performing the work in Part (1) above beginning October 26, 1989 and thereafter."

FINDINGS:

The Third 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 waived right of appearance at hearing thereon.

The International Brotherhood of Boilermakers & Blacksmiths was determined to be a third party at interest. That Organization was notified of the dispute, but did not submit a response.

This dispute arises from the Coordination Agreement of September 17, 1985, involving the consolidation of work at Barboursville and Martinsburg. One result of this was the elimination of the position of Material Reclaimer, with employees holding that title being integrated into the roster of Assistant Foreman.

At issue is the question of dismantling frogs for the purpose of reclaiming them for further use. The record shows that the disassembly of frogs has been performed by Maintenance of Way forces and by Blacksmiths. In this instance, such dismantling was performed by Blacksmiths as part of their assignment in reclaiming the frogs.

The Organization contends that the dismantling portion of the work should have been assigned to Maintenance of Way employees in the capacity of Material Reclaimer. For support, the Organization points to Rule 66(b), which states in pertinent part as follows:

"(b) In carrying out the principles of Paragraph (a), section and extra gangs will perform work to which they are entitled under the rules of this agreement in connection with . . . installing, maintaining, and removing frogs and switches, including crossing frogs, (except welding or other work done on frogs and switches by blacksmiths); . . ."

Based on the record, both Maintenance of Way employees and Blacksmiths have been assigned to the dismantling work at both Martinsburg and Barboursville. As best as can be determined, Maintenance of Way forces have generally been assigned to the work when the material involved is to be scrapped, while Blacksmiths have been involved, as here, where the frogs are to be reclaimed for further use, and the frogs are already "in the shop."

It is also noted that Rule 66(b) as quoted above, refers to work on frogs (installing, maintaining, removing) but does not specify the work of dismantling frogs.

Thus, in this instance, the Board finds no violation in the disassembly work performed by the Blacksmiths when it was in connection with their customary reclaiming work on the frogs.

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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 Third Division

Dated at Chicago, Illinois, this 9th day of November 1994.