

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 30767
Docket No. MW-28990
95-3-89-3-417

The Third Division consisted of the regular members and in addition Referee Edwin H. Benn when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(Duluth, Missabe and Iron Range Railway
(Company

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

(1) The Carrier violated the Agreement when it assigned TCU Ore Dock Mechanic R. Berg instead of B&B Lakehead Storage Mechanic R. Lilliberg to perform repair work on Conveyor Number 3 at the Duluth Lakehead Storage facility on April 23, 1988 (Claim No. 15-88).

(2) As a consequence of the aforesaid violation, Mr. R. Lilliberg shall be allowed pay for two (2) hours and forty (40) minutes at the B&B Lakehead Storage Mechanic time and one-half rate."

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.

At the relevant time, Claimant was Mechanic in the B&B Subdepartment of the Maintenance of Way Structures Department and was regularly assigned to the Carrier's Lakehead Storage Facility. On Claimant's day off, Saturday, April 23, 1988, a conveyor roller failed. Dock Supervisor R. A. Saburn assigned B&B Mechanic L. Forstrom to replace the roller. Saburn also instructed Ore Dock Mechanic R. Berg to utilize a front-end loader for lifting the conveyor belt so that Forstrom could have access to the roller. Berg is represented by TCU. Claim was filed by the Organization alleging that the work performed by Berg should have been performed by Claimant.

The Carrier asserts in the correspondence on the property that changing of rollers can be a one person job and, in many situations, TCU Mechanics facilitate the replacement of rollers by using equipment such as a front-end loader to lift the belt off the rollers.

On the property, the Organization disputed the Carrier's assertion that TCU Mechanics have assisted in this work to the extent stated by the Carrier - "NEVER EVER has this been the case," according to the Organization. The Organization then states, however, that "YES when a B&B employee has asked the TCU operator to assist on a rare occasion they have". In statements provided by employees, the Organization offers further evidence supporting the position that the kind of work involved in this matter belongs to B&B employees. Forstrom's statement asserts that "Other than this situation, I can't recall any other instance where anybody other than a B&B man has helped me." B&B Foreman J. P. Keye's statement asserts that during his approximate 18 years there "has been no help from anyone but our own craft in changing rollers." B&B Foreman D. E. Nettleton's statement asserts that since 1977 he "has yet to have or get help changing rollers from any other craft other than our own." Local Chairman G. S. Bennett's statement asserts that "Maintenance of Conveyors as per Supplement 9 belongs exclusively to the M/W B&B" but then states that "T.C.U. operators have assisted the B&B when asked by B&B employees."

We cannot find that the specific work involved in this case has been exclusively performed by B&B Mechanics. The evidence shows that the TCU Mechanic only lifted the belt so that the B&B Mechanic could get to the roller. There is no evidence that the TCU Mechanic assisted in the actual repair of the roller itself. But, in any event, the Carrier asserts that TCU Mechanics in the past have assisted in this fashion. The Organization contests that assertion, but then concedes that "on a rare occasion they have" and "T.C.U. operators have assisted the B&B when asked by B&B employees."

The parties therefore only actually differ on the degree to which TCU Mechanics have performed the disputed work. But, the point here is that the evidence does not show that the precise type of work performed by the TCU Mechanic on April 23, 1988 has been exclusively performed by B&B Mechanics as claimed by the Organization. Indeed, the Organization's evidence points to the opposite conclusion.

The claim must therefore be denied.

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AWARD

Claim denied.

O R D E R

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 6th day of April 1995.