

Award No. 10687

Docket No. MW-9182

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Richard F. Mitchell, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

**THE NEW YORK, NEW HAVEN AND
HARTFORD RAILROAD COMPANY**

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

(1) The Carrier violated and continues to violate the effective Agreement when, beginning on June 21, 1954, it assigned other than Bridge and Building employees to maintain the conveyors installed and used at the Post Office Railroad Mail Terminal, New Haven, Connecticut;

(2) The Carrier now be required to immediately restore the work referred to in part one (1) of this claim to its Maintenance of Way Department B&B employees.

EMPLOYEES' STATEMENT OF FACTS: On April 14, 1954, the new Post Office Railroad Terminal Building at New Haven, Connecticut was placed in operation and Maintenance of Way Department B&B employees were assigned to perform the work of maintaining the conveyors used in this operation. This work consisted of lubricating rollers and fittings, changing and renewing oil in gear boxes of both belt and chain conveyors, adjusting slack in both conveyors, replace rollers in belt conveyor, remove links in chain conveyor, lubricate the wheels of the mail platform trucks and all maintenance work in general.

Beginning on June 21, 1954, the Carrier assigned an employee from its Mechanical Department to perform this work, thereby depriving Bridge and Building employees of work to which their seniority entitled them. Mechanical Department employees hold no seniority rights under the effective Maintenance of Way Agreement.

Protest and request, as set forth herein, was filed and the Carrier has declined to return this work to Maintenance of Way Department B&B employees.

The Agreement in effect between the two parties to this dispute dated September 1, 1949, together with supplements, amendments, and interpretations thereto are by reference made a part of this Statement of Facts.

hood of Maintenance of Way Employees and R. V. Collins, International Representative, Sheet Metal Workers' International Association, and all other work generally recognized as Bridge and Building Carpenter work."

The rule does not specifically cover the work in issue. Even by analogy maintenance of bearings and other metal machinery used in the chain and belt conveyors is remote from the categories enumerated in the above rule. Rule 60 — Classification of Work, in the Agreement effective September 1, 1949, with System Federation 17, Railway Employees' Department, Mechanical Section thereof, reads:

"Machinists' work shall consist of laying out, fitting, adjusting, shaping, boring, slotting, milling and grinding of metals used in building, assembling, maintaining, dismantling and installing locomotives and engines (operated by steam or other power), pumps, cranes, hoists, elevators, pneumatic and hydraulic tools and machinery, scale building, shafting and other shop machinery, ratchet and other skilled drilling and reaming; tool and die making, skilled tool grinding and machine grinding, axle truing, axle, wheel and tire turning and boring; engine inspecting; air equipment, lubricator and injector work; removing, replacing, grinding, bolting and breaking of all joints on superheaters; oxyacetylene, thermit and electric welding on work generally recognized as machinists' work; the operation of all machines used in such work, including drill presses and bolt threaders using a facing, boring or turning head or milling apparatus; and all other work generally recognized as machinists' work."

The balance of the rule relates to certain exceptions and inclusions not pertinent here, such as tool grinding, breaking joints and handling metal pilots on locomotives. As contrasted with the classification rule of the Maintenance of Way Agreement, it will be observed that this rule mentions specifically "hoists, elevators, pneumatic and hydraulic tools and machinery."

On the basis of the above comparison, if the Board reaches the merits of the dispute, Carrier submits that the work questioned here finds its closest definition, whether specific or by analogy, in the classification rule of the Machinists' Agreement, that the work was properly assigned and the result here should be:

Claim denied.

All of the facts and arguments used in this case have been affirmatively presented to employees' representatives.

(Exhibits not reproduced.)

OPINION OF BOARD: In April 1954, the Carrier placed in operation a new mail handling facility at New Haven, Connecticut. Included in the new equipment was an overhead chain conveyor and a belt conveyor system to handle parcel post packages.

On April 14, 1954, B&B employees were assigned the work of maintaining the conveyors used in handling parcel post; this work consisted in making minor adjustments and greasing the equipment. On June 21, 1954, the Carrier assigned an employee from its Mechanical Department to perform this work, thereby depriving B&B employees of the work which they had exclusively per-

formed since April 14, 1954. On July 16, 1954, the Claimants protested this work being assigned to a machinist and on August 23, 1954, Carrier declined the request to have the work reassigned to the employees covered by the Maintenance of Way Agreement. Employees appealed to this Board.

The first question raised is that the Carrier recognized the work as belonging to B&B men by first assigning a B&B employe to the position. With this we cannot agree, the fact that Carrier assigned this work to B&B employes doesn't make it theirs exclusively nor does it mean Carrier recognized it as falling within their Scope Rule.

This Division in Award 8070 said, we quote:

"It will be observed that the Scope Rule in this case does not mention car-retarder system or its motivating power, i.e., the boilers or air-compressors. When the current Agreement was entered into, February 1, 1946, none of these were in use or in construction and there were no car retarder systems, therefore, at that time the work claimed could not possibly have been 'generally recognized as signal work.'

"Since then, true, for twenty-five months Signalmen did most of the work claimed here but it was management's responsibility to assign it to someone initially, and the assignment under the circumstances in this case does not unequivocally commit management forever so that the work becomes the exclusive property of the first one to perform it. Management may still exercise its discretion in the matter until that right is bargained away or becomes clearly committed by the catch-all provision of the Scope Rule. Until that time, management may assign it as it sees fit to any one or several."

The Claimants contend that the work comes under the B&B Agreement, because Rule 53 encompasses "Maintenance of * * * mail cranes, * * *." That what is involved in this dispute, is namely maintaining mail cranes inside of the New Post Office Railroad Terminal Building.

With this we cannot agree, it is the maintenance of new equipment described as a "mail conveyor belt", and could never be considered as a "mail crane."

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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 has not been violated.

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AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 19th day of July 1962.