

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19868  
Docket Number MW-19840

Burl E. Hays, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees  
(The Atchison, Topeka and Santa Fe Railway Company  
( - Western Lines -

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

(1) The Carrier violated the Agreement when it assigned or otherwise permitted Terminal Carpenter Earl Renfro and Engineering Department Employee H. M. Baker to install overlay panels on signs on the Southern Division beginning on or about July 23, 1968 (System File 130-155-A-1).

(2) B&B Painters George Hintz, Henry Renken, M. L. Argabright, M. G. Jones, L. P. Fowler and H. J. Roberts each be allowed an additional 2-2/3 hours of straight time pay for each day of the violation described in Part (1) above.

OPINION OF BOARD: On or about July 23, 1968 Carrier "assigned or otherwise permitted" Terminal Carpenter Earl Renfro and Engineering Department Employee H. M. Baker to install overlay panels on signs on the Southern Division of Atchison, Topeka and Santa Fe Railway System.

Claimants, as B&B painters, maintain that Carrier violated the agreements in that this work should have been assigned to them. They cite Award No. 13304 which states that "roadway signs....have historically been installed, maintained and painted by B&B painters."

Carrier contends that the only work involved in this dispute was the securing, by screws or bolts on overlay panels on already existing signs; that no painting of any kind was performed; that this work was not the exclusive right of B&B painters, and therefore the agreements were not violated.

In response to this contention Claimants point out that "the application of overlay panels is merely a change in the method of restoring the visibility of roadway signs and that such a change in the method of performing this work does not change the character thereof."

The Board is of the opinion that Award No. 10369 (which follows the reasoning in previous Award No. 4637) is directly in point on this issue, wherein it states:

"We believe that the placing of overlay signs in this case was a new method for the repainting and/or re-lettering of existing signs. To this extent, the Carrier's change in the method of performing the work did not change the character of the work being performed. We are of the opinion that this work properly belongs to the Claimants."

In view of the decisions in these previous Awards we believe that in this instance this work properly belonged to Claimants and that Carrier did violate the terms of the Foreman's and Laborer's Agreement.

However, Carrier contends that Claimant L.P. Fowler "is not a proper claimant as he has relinquished his rights in the B&B Department in order to remain in the Track Department", and that on July 23 and 24, 1968, the dates this work was performed, Mr. Fowler worked as a trackman in the Track Department.

Carrier also contends that Claimant H. J. Roberts "ceased working in the B&B Department and commenced working in the Water Services Department as a plumber effective September 26, 1967"; that he performed such work on the dates in question, and therefore he is not a proper claimant.

These allegations are not denied. It is the opinion of the Board that L. P. Fowler and J. H. Roberts are not proper claimants, and that the claim on their behalf should be denied.

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 violated in accordance with the Opinion.

A W A R D

Claim sustained to the extent indicated in the Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

A. W. Paulos  
Executive Secretary

Dated at Chicago, Illinois, this 27th day of July 1973.