

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20022
Docket Number MW-19766

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(Burlington Northern Inc. (Formerly Spokane,
(Portland & Seattle Railway Company)

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

(1) The Carrier violated the Agreement when it assigned Blacksmiths Ray Rozalski and Norman J. Roupe to dismantle shelves in store department buildings at Vancouver, Washington (System File 348 F/MW-84, 3-31-71).

(2) B&B employees D. Wright, W. Eriksen, G. Ditmer, L. Kramer, A. West, B. Kincheloe, R. Wells, L. Walker and D. Gonrowski each be allowed pay at their respective straight time rates for an equal proportionate share of the total number of man hours consumed by blacksmiths in performing the aforesaid shelf dismantling work.

OPINION OF BOARD: The claim refers to assignment of non-bargaining unit employees to dismantle "shelves". Rule 40 reserves to the employees work required to dismantle "buildings" or bridges.

In its Submission of the dispute to this Board, the Organization asserts that "...the work in question consisted of dismantling shelves which were attached to and a part of the Carrier's store department buildings...." "(underscoring supplied). The Organization repeated that assertion in its Reply Brief.

Yet a review of the Record demonstrates that on the property, the employees never alleged that the shelves in question were attached to, and part of, the building. That omission is crucial to this Award.

Certainly, shelving may be an integral part of a structure, to the point that it would be a "fixture" and part of a building, so that dismantling of the shelves could be considered at least a partial dismantling of a building. At the same time, we are aware that many buildings contain free-standing shelving which is, in no manner, so attached to the structure so as to be considered as part of the building.

Any conclusion by this Board as to the nature of the shelving involved in this case would, of necessity, be speculative.

In order to consider the merits of this dispute we require a more specific showing of the nature of the shelving, and assertions made initially before this Board are not sufficient.

For reasons stated above the claim must be dismissed. We do not rule on other procedural matters raised, nor do we reach any decision on the merits.

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 claim be dismissed.

A W A R D

Claims dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Parker
Executive Secretary

Dated at Chicago, Illinois, this 31st day of October 1973.