

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25488
Docket Number MW-25403

M. David Vaughn, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(The Chesapeake and Ohio Railway Company

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

(1) The Carrier violated the Agreement when it assigned Boilermakers instead of B&B forces to weld five (5) air hose reel holders to stationary floor cranes at the Huntington Shops on June 17, 1982 (System File C-TC-1386/MG-3599).

(2) Because of the aforesaid violation Messrs. G. Gosnay, C. Stratton, I. Wiley, S. Byrd, M. Dial, C. Conley, H. Clay, L. Spry, Jr., C. Lambert, H. D. Dean, D. L. Dean and C. Rakes shall each be allowed pay at their respective rates for an equal proportionate share of the sixteen (16) man-hours expended by Boilermakers in performing the work referred to in Part (1) hereof.

OPINION OF BOARD: The Organization, on behalf of twelve (12) named Claimants, makes a claim for pay for time because work assertedly within the scope of jurisdiction of the Bridge and Building Craft was performed by Boilermakers in Carrier's employ.

On June 17, 1982, the Carrier assigned two (2) Boilermakers to install five (5) air hose reel holders to stationary floor crane masts permanently anchored to the concrete floor of the Huntington Locomotive Shop at Huntington, West Virginia. The work was completed in approximately one and one-half hours. The holders were welded in place on the masts.

The Organization filed a claim for the work, which the Carrier declined initially and on appeal. The claim was then brought before this Board.

The Organization asserts that the Carrier's action violated the Scope provisions of the Agreement between them. Rule 66 of the Agreement states in part:

*(a) ***Classification of employees and classification of work, as has been established in the past, is recognized.

(c) In carrying out the principles of Paragraph (a), bridge and structures forces will perform the work to which they are entitled under the rules of this agreement in connection with the construction, maintenance, and/or removal of...buildings or structures, except where such work is performed by other employees under other agreements in accordance with the rules of such agreements or past practice in the allocation of such work between the different crafts, including work performed by shopmen in connection with the maintenance of shops... and shop work ...in connection with maintenance of... structures...

(g) Welding on steel...structures in connection with work belonging to the bridge and structures group will be done by carpenters, being paid the differential provided by Rule 65."

The Organization asserts that the Scope provisions of the Agreement identify the work in question and exclusively reserve the work to the B&B Craft. Specifically, the Organization asserts that a crane mast permanently anchored in a concrete floor is part of a "structure" and that welding on any part of a structure, as was done with the installation of the reel holders, is within the jurisdiction of Carpenters, a part of the B&B group. It argues that the Carrier did not demonstrate that such work had historically been performed by other Crafts so as to justify assigning the work of any Craft other than B&B Employees.

The Carrier asserts that Rule 66 (c) must, by its terms, be read together with Rule 79 of the Shop Crafts Agreement, which defines the Scope of work for the Boilermakers. That Rule assigns to Boilermakers "All...work generally recognized as Boilermakers' work." The Carrier asserts that both Scope Rules are general and, under Board precedent, require proof that the Craft asserting jurisdiction historically has had exclusive right to the work on a system-wide basis, proof which the Carrier asserts was not submitted by the Organization in the instant claim. The Carrier submits, in support of its position that the work has not historically been performed exclusively by the B&B Group, documentation that other Crafts have also performed the same or substantially similar work.

Under applicable Board rules, the Boilermakers were notified of the Organization's claim of entitlement to work performed by them. The Boilermakers submitted an Intervening Statement. That Statement asserts that the disputed work belongs to them. The Statement is accompanied by documentary evidence that the Boilermaker Craft has historically performed the same and similar work and by other documentation that the Machinists have performed some substantially similar work and have also claimed such work. The documentation is in the form of statements from present and former Boilermakers and correspondence between the Carrier and the Boilermakers regarding work like that in dispute, all of which indicate that the Boilermakers have in the past performed such work.

The Board concludes that the Scope Rule in the Agreement between the Organization and the Carrier, while describing in some detail work belonging to the Organization, also provides a specific exception from a Rule for work which has by past practice been allocated to other crafts, specifically including Shop Crafts. The documentation provided in the submissions of the Carrier and the Boilermakers demonstrate with reasonable clarity that like and similar work to that here in dispute has been performed in the past by Boilermakers and, possibly, by other Crafts. The documentation is not effectively rebutted by the Organization, nor does the Organization affirmatively demonstrate the exclusivity of the work which would be required in order to sustain its claim.

Accordingly, the Board must, and it hereby does, deny the claim.

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 Employes involved in this dispute are respectively Carrier and Employes 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

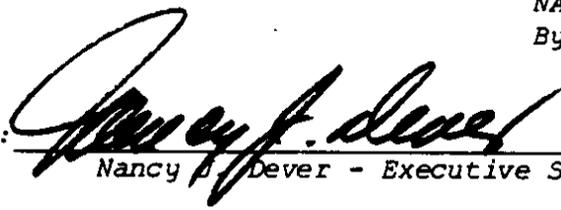
That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:



Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 23rd day of May 1985.