

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25822
Docket Number MW-25505

Eckehard Muessig, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(The Chesapeake and Ohio Railroad Company (Southern Region)

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

(1) The Carrier violated the Agreement when it assigned Car Department forces instead of Bridge and Structures forces to construct an office structure at the Huntington Shops on September 24 and 27, 1982 (System File C-TC-1452/MG-3689).

(2) As a consequence of the aforesaid violation, B & B Mechanics K. D. Brown, D. E. Scarberry, W. P. Steele, R. E. Adkins, C. Perry, W. Smith, I. Wiley, H. Clay, C. Hanshaw, H. B. Hunter and C. R. Stratton shall each be allowed pay at their respective rates for an equal proportionate share of the twenty-four (24) man-hours expended by Car Department forces in performing the work referred to in Part (1) hereof."

OPINION OF BOARD: This dispute arose because Carrier had Carmen construct an office building approximately fifty (50) feet east of a structure known as the Diesel Office at Huntington Shop, Huntington, West Virginia. The Organization asserts that work of this character has customarily, historically and traditionally been performed by the Carrier's Bridge and Structures Group Forces and is reserved to them under the provisions of Rule 66 - Classification. It relies upon its construction of the Controlling Rule, past awards and a Claim previously settled on the property to advance this present Claim.

The Brotherhood Railway Carmen of the United States and Canada were notified of this Claim as possible parties of interest and have provided a submission for the Board's consideration.

The evidence shows that the work under dispute, which was performed by the Carmen, consisted of the fabrication of a wood platform in the Planning Mill which then was assembled in the engine rebuild area of the shop floor. It was not attached or secured to the building, did not have electricity or telephone service, and overall, cannot be reasonably considered a structure of substance.

The Organization has failed to meet its burden of proof herein, as described in the record before us, that work of this character has been exclusively reserved to the Claimant's craft and the Claim, therefore, must fail.

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

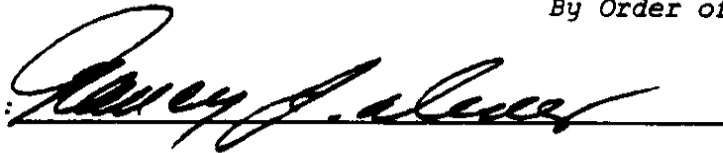
That the Agreement was not violated.

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 12th day of December 1985.