

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26166  
Docket Number MW-26104

John E. Cloney, Referee

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

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

1. The Carrier violated the Agreement when it assigned Pipe Fitters to attach three (3) heater brackets to the superstructure at Huntington Shops on January 5 and 6, 1983 (System File C-TC-1565/MG-3930).

2. Because of the aforesaid violation, Messrs. K. Brown, J. D. Cupp, G. R. Harper, R. E. Adkins, W. P. Steele and D. E. Scarberry shall each be allowed pay at their respective rates for an equal proportionate share of the three (3) man-hours expended by the Pipe Fitters in performing the work referred to in Part (1) hereof."

OPINION OF BOARD: This Claim is based on Organization's contention that Carrier used Shop Craft employees to perform work contractually reserved to the Bridge and Structures forces under Rule 66 which reads in part:

"(c) . . . 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 bridge . . . 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 . . . ."

The Claim arose because on January 5 and 6, 1983, two Sheet Metal Workers were assigned to attach brackets for the installation of space heaters to the structural steel columns at the Carrier's Huntington, West Virginia Blacksmith Shop. The Organization asserts the two worked three hours while the Carrier states two hours were taken.

The Organization believes that work is reserved to it by the Scope Rule, which it views as specific, and further as the Rule is specific it is not necessary for it to establish exclusivity. Rather it is for the Carrier to establish, by proof, a past practice of this work being assigned to Shop Craft people. The Sheet Metal Workers International Union position is that it has long been the practice at the Huntington Shops that hanging of heaters is a classification of work done by Sheet Metal Workers.

There have been several recent Awards involving the parties in which the Claim was made that the Rule was violated by assignment of work to Shop Craft Employees. All resulted in denial. These include Third Division Awards 25653, 25488, 25578 and 25652. The facts in Award 25652 are similar to the facts here. There the Claim was that Sheet Metal Workers were assigned to "install brackets for the support of space heaters on structural steel columns at the Huntington, West Virginia shop buildings." The only difference between the two cases seems to lie in the fact that in Award 25652 the Sheet Metal Workers drilled holes in the columns in order to bolt the brackets while in this case the brackets apparently were attached to preexisting holes. In Award 25652 this Board held:

"The Board concludes that the Scope Rule in the Agreement between the Organization and the Carrier does not by specific terms clearly cover the work in dispute in the instant case. Installation of brackets, involving as it did here the drilling of holes in and affixing of brackets to structural columns, does not in any manner constitute the construction, maintenance or removal of a structure."

We consider that dispositive of this 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 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 29th day of October 1986.

