

The Third Division consisted of the regular members and in addition Referee Robert W. McAllister when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(Southern Pacific Transportation Company (Western Lines)

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

(1) The Carrier violated the Agreement when, on October 2, 3, 9, 10, 11, 12, 16, 17, 19, 22, 23 and 25, 1984, it assigned and used Assistant Foreman F. Bradford to perform welding work (Carrier's File MofW 152-1010).

(2) Claimant F. Sanchez shall be allowed the difference between what he was paid at the carpenter's rate and what he should have been paid at the B&B welder's rate for seventeen (17) hours and twenty-five (25) minutes."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

The Claimant, who held seniority as a welder, was unable to work as such due to the Carrier's abolishment of all welder positions on its Western Division. Consequently, he exercised his seniority to a carpenter position on B&B Gang No. 4, which consisted of a B&B Foreman, a B&B Assistant Foreman, and three carpenters. Between October 2 and October 25, 1984, the Assistant Foreman, who does not hold seniority as a welder, performed welding work, which the Organization contends should have been assigned to Claimant by virtue of his seniority. The Organization claims that a total of seventeen hours and twenty-five minutes of welding work was performed over twelve dates of Claim. The amount of welding done each date ranged from thirty minutes to three hours.

The Organization does not argue that the Carrier was required to establish a welder position to perform this work nor has it cited any rule which would have required the establishment of such a position under these circumstances. Its assertion that the rule was violated is not based upon Claimant's position as a carpenter, but rather upon his seniority as a welder and the Assistant Foreman's lack of welder seniority.

The Scope Rule upon which the Organization relies is a general classification rule (Third Division Award 25350). As such, the rule does not provide exclusive grants of work to the specific classification of jobs. Accordingly, for this Board to support such exclusivity, the Organization must show, through historical custom and practice, that welding work has been reserved to employees holding seniority in that classification. The Carrier has asserted that the opposite is true, and the Organization has not effectively refuted this position.

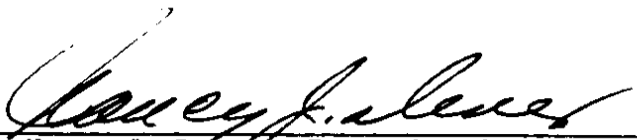
Under the circumstances, we must hold the Organization has failed to meet its burden of proof, and the Claim must be denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Deven - Executive Secretary

Dated at Chicago, Illinois, this 31st day of July 1989.