

SHEET METAL WORK

217

Agreement between Sheet Metal and Air Conditioning Contractors National Association-New York City Chapter, Inc. and Sheet Metal Workers' International Association Local Union No. 28.

Article I

Section 1. This Agreement covers the rates of pay, rules and working conditions of all employees of the Employer engaged in the manufacture, fabrication, assembly, erection, installation, dismantling, reconditioning, adjustment, alteration, repairing, and servicing of all sheet metal work (including ferrous or non-ferrous sheet metal) of No. 10 U.S. gauge or its equivalent or lighter gauge, or any and all substitute materials used in lieu thereof (any question of jurisdiction of substitute material to be settled in accordance with the Joint Arbitration Plan between the Building Trades Employers' Association and the Unions of the Building Trades of the City of New York), including 9 shop and field sketches used in fabrication and erection (including those taken from original architectural and engineering drawings or sketches) and all other work included in the jurisdictional claims of Sheet Metal Workers International Association.

Section 2. Testing and Balancing Of all air-handling equipment and duct work contracted for prior to June 30, 1969, shall be done by a composite crew of one journeyman sheet metal worker and one tester. Testing and Balancing of all air-handling equipment and duct work on all work contracted for after June 30, 1969, shall be done only by journeymen sheet metal workers.

Section 3. All internal linings for casings, plenums and ducts are and shall remain the work of the sheet metal workers exclusively, which shall be performed only by journeymen and apprentice sheet metal workers in the bargaining unit covered by this Agreement. Internal linings for casings, plenums and ducts must be lined prior to erection.

Section 4. Supply Casings as per annexed sketch.

Addendwn "B"

II. Memorandum Containing No Subcontracting Clause

For the preservation of the work opportunities of the Journeymen Sheet Metal Workers and Apprentice Sheet Metal Workers within the collective bargaining unit, each Employer within the collective bargaining unit shall not subcontract out any item or items of work described hereinbelow; except that each said Employer shall have ft right to subcontract for the manufacture, fabrication or installation of such work with any other Employer within the collective bargaining unit:

1. Radiator enclosures except when manufactured and sold as a unit including heating element.
2. Functional Louvers.
3. Attenuation Boxes except for mechanical devices contained therein.
- 3a. Sound traps.

4. Dampers: All types of Dampers, including Automatic Dampers and Multi-Zone Dampers, Manual Control Dampers and Fire Control Dampers, except Patented Pressure Reducing Devices.
5. Skylights, Sheet Metal Sleeves, Pressure Reducing Boxes, Volume Control Boxes, Trollers (plenums), High Pressure Fittings and Guners (excluding 1/2 Round Gutters).
6. Air handling units in excess of 30,000 C.F.M.'s.
7. All other work historically, traditionally and customarily performed by Journeymen Sheet Metal Workers and Apprentice Sheet Metal Workers within the collective bargaining unit in accordance with the collective bargaining agreement.

All the work described in this "no subcontracting clause" shall be Performed by journeymen and/or apprentice sheet metal workers in the bargaining unit covered by this Agreement.

RULE XII. Work covered by this agreement.-The manufacturing and erection of all sheet metal work in connection with buildings and structures as follows:

Hollow metal sash, frames, partitions, skylights, cornices, crestings, awnings, circular mouldings, spandrels (except stamping of same), sheet iron sheeting or roofing, package chutes, linen chutes, rubbish chutes, hoods, sheet metal fire proofing, ventilators, heating and ventilating pipes, air washers, conveyors, breaching and smoke pipes for hot water heaters, furnaces and boilers, laundry dryers and all connections to and from same, metal jackets and lagging for pumps and boilers, blow pipe work in mills, sheet metal connections to machines in planing mills, saw mills and other factories (whether it be used for ventilating, heating or other purposes), sheet metal connections to and from fans, separators, sheet metal cyclones for shavings or other refuse in connection with various factories, sheet metal work in connection with or fastened to store fronts or windows, sheet metal work in connection with concrete construction and sheet metal columns and casings, covering all drain boards, lining of coil boxes, ice boxes and other sheet metal work in connection with bar furniture and soda fountains.

Spot welding, electric arc welding, oxy-acetylene cutting and welding in connection with sheet metal work of #10 gauge or lighter, covered by the agreement; also sheet metal work in connection with plain and corrugated fire doors of #10 gauge or lighter; also the erection of floor domes, the setting of registers and register faces in connection with sheet metal work, the cutting and bending of metal necessary for the application and erection of metal ceilings and side walls (except stamping), the applying of metal to ceiling and side walls and the furring and sheathing of same. The assembling and erection of fans and blowers; also the erection of metal furniture, factory bins, shelving and lockers, corrugated iron on roofs and sidings, all metal shingles and metal slate, and tile, plain or covered with a foreign substance, the manufacture and erection of corrugated wire glass and accessories; also the glazing of metal skylights.

The installation of unit vents where there is sheet metal work in connection with the supply and discharge of air, the setting of radiator enclosures of sheet metal where it does not support the radiator. In the manufacture of drawn metal work, the work Of journeymen sheet metal workers shall be the cutting and forming of the metal before the same is applied to the wood, and all clipping and soldering that may be necessary in the finishing of the assembled parts and the covering of wood and composition doors, frames and sash with sheet metal.

Also such other sheet metal work #10 gauge or lighter, not herein specified, that has been decided by the Executive Committee of the Building Trades Employers' Association to be, or is now, in the possession of the Sheet Metal Workers' Union shall be regarded as sheet metal workers' work.

In the Kitchen Equipment Industry, it is understood that the term "Sheet Metal Work" shall mean all work made of sheet metal of # 10 gauge or lighter, including the making, mounting, erecting, cleaning and repairing of all steel and gas ranges, grid irons and oven racks, hood, tables and stands, warming closets, plate warmers and plate shelves, bands, doors and slides for same, drip pans, urns and percolators, vegetable steamers, copper baskets and covers for steam kettles, revolving covers, meat dishers and covers, steam and carving tables and drainers for same, Bain marie boxes and potato mashers and any other items or types of work that may be included in Article 1, Section 5 of the Constitution and Ritual of the Sheet Metal Workers' International Association.

(i) In the temporary operation of fans or blowers in a new building, or in an addition to an existing building, for heating and/or ventilation, and/or air conditioning, prior to the completion of the duct work in connection therewith, journeymen sheet metal workers shall have jurisdiction in the temporary operation and/or maintenance of such fans or blowers, and they shall work in full shifts of not less than seven (7) hours nor more than eight (8) hours each, and will receive single time wages for all time so employed on this work including nights, Saturdays, Sundays and Holidays, on full shifts.

(ii) All temporary operations and/or maintenance shall be paid for at single time except for less than a full shift work outside of regular hours, then double time shall be paid.

(iii) In the temporary operation and/or maintenance of fans and blowers, the jurisdiction of Sheet Metal Workers Local Union 28 shall continue.

(a) Until a system and/or systems are accepted by the Owner or his representative after having been tested and balanced.

(b) Each area in a building shall be considered as substantially completed for the purpose of stopping fan maintenance when all core work, toilets, elevator machine rooms, perimeter systems and fan rooms are installed in the area, and the public corridor and perimeter of the building is plastered to the ceiling height, or a substitute for plaster is used on either the public corridor or the periphery or perimeter of the building. The plastering requirements shall be waived where the plastering is not done because the area is not rented.

(iv) The number of journeymen sheet metal workers required for each shift of fan maintenance shall be based on assignment of one man to maintain a reasonable number of operating heating, ventilating, air conditioning, or exhaust systems.

(v) No man engaged in fan maintenance shall work in excess of forty hours in any work week.

(vi) Elevator service must be maintained at all times when maintenance is in operation above the sixth floor of any building.

(vii) Journeymen sheet metal workers employed on temporary operation and/or maintenance, shall tighten belts, lubricate, and perform all service work necessary to protect the equipment being maintained.

(viii) The jurisdiction Of Local 28 shall apply to the operation and/or maintenance of fans or blowers only for new systems installed in an existing building or when an old system is in effect completely replaced by a more complete and modern system

(ix) Journeymen sheet metal workers shall not be employed for the sole purpose of operating and/or maintaining fans or blowers during any period when such fans or blowers are operated for the sole purpose of testing or adjusting a heating, ventilating, or air conditioning system.

217a

-Panels, pressed brass, application of.

-Ornaments, pressed brass, on ceiling beams, application of.

Sheet Metal Workers, Local No. 28 vs. Carpenters District Council Japanese Building, New York World's Fair, Flushing, N. Y.

The committee finds that the application of the pressed brass panels is work similar to metal ceiling work which is recognized to be in the possession of the sheet metal worker.

The committee dismisses the complaint on the application of pressed brass ornaments on ceiling beams. -Decision of Executive committee, March 29, 1939.

217-2a

-Ornamental aluminum ceiling Baffles, Installation of.

I.B.E.W. Local No. 3 vs. Sheet Metal Workers Local No. 28 International Arrivals Building, John F. Kennedy Airport, New York.

The installation of ornamental sheet metal aluminum baffles used primarily as a decorative element and independent of the lighting system is the work of the Sheet Metal Worker. -Decision of the Executive Committee, September 23, 1970.

217-3a

-Sheet Metal Baffles, Installation of

Electrical Workers Local Union 3 vs. Sheet Metal Workers Local Union 28 -Greenpoint Hospital, Brooklyn, New York.

The Executive Committee finds that the installation of Sheet Metal Baffles Independent of the lighting fixture is the work of the Sheet Metal Workers. -Decision of the Executive Committee, March 4, 1975.

217-4a

-Prefabricated Multiple Utility Distribution Systems for Kitchens, Handling and Setting of.

I.B.E.W. Local 3 vs. Sheet Metal Workers Local 28 (Steamfitters Local 638 and Plumbers Local 2 also participated)-- Taft Hotel, 5 1 st St. and 7th Ave., New York City.

The Executive Committee finds that the work in question, the handing and setting of prefabricated multiple utility distribution systems for kitchens, is not covered by existing agreements or decisions of record and shall be performed by a composite crew of equal number of members of Locals of the International Brotherhood of Electrical Workers, Sheet Metal Workers International Association and United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the U.S. and Canada. -Decision of the Executive Committee, June 4, 1987.

217b

-Aluminum foil, for Insulation\$ on ceiling, floor and walls, application of.

-Aluminum sheets, forming ceiling and wall finish, Installation of.

Sheet Metal Workers Local No. 28 vs. Carpenters District Council -Loft Candy Factory, L.I.C. and East New York Savings Bank, Eastern Parkway and Utica Avenue, Brooklyn, New York.

The work involved in this jurisdictional dispute is a method for insulating cold storage rooms, comparatively new to this area. It consists of lining ceiling, floor and walls with several layers of aluminum foil, each fastened to wood furring strips or grounds. The first application of foil has the seams sealed vapor-proof with a lead tape. For the final application on ceiling and walls, which makes the room finish, aluminum sheets are applied, finished with aluminum butt straps and comer angles.

The committee finds that the installation of wood furring strips or grounds, together with the application of the aluminum foil, is the work of the carpenters; but the installation of the final aluminum sheets with grounds to receive them, together with the butt straps and corner angles, forming the room finish, is the work of the sheet metal workers. -Decision of Executive Committee, May 5, 1948.

218

-Sheet metal work, sash, hollow metal, hanging of.

Association of Metal Covered Doors and Windows for Voigtmann & Co. vs. Carpenters -Hotel, Fifth Ave. and 55th St.

The hanging of hollow metal sash is work which belongs to the Sheet Metal Workers' Union. - Decision of General Arbitration Board, June 29, 1904.

219

-Sash, hollow metal, Installing of.

Sheet Metal Workers' Union vs. Carpenters' Union.

The work of hanging hollow metal sash has been in the possession of the Sheet Metal Workers' Union. -Decision of Executive Committee, August 2, 1905.

220

-Sheet metal work, clothes dryers, etc., manufacturing of.

Amalgamated Sheet Metal Workers' Union vs. Marc Eidlitz & Son -Belmont Hotel.

The general secretary is instructed to notify Marc Eidlitz & Son and the Secretary of the Building Trades Employers' Association that the work on manufacturing clothes dryers and similar sheet metal appliances belongs to the Sheet Metal Workers' Union.-Decision of Executive Committee, September 20, 1905.

221

-Doors, metal covered, for freight elevators, manufacture of.

Sheet Metal Workers' Union vs. Elevator Supply and Repair Co.

The Elevator Supply and Repair Co. is notified that an this kind of work must be manufactured by members of Local 11 Sheet Metal Workers, of New York, and as these particular doors were delivered before the company was aware of the conditions imposed by the trade agreement the doors of the Wanamaker building are exempted from the rule. -Decision of Executive Committee, October 25, 1905.

222

-Register faces, setting of.

Sheet Metal Workers vs. J. L. Hamilton & Sons -Knickerbocker Hotel Building, 42nd St. and Broadway.

The attaching of register faces in connection with heating and ventilating shall be done by sheet metal workers, and the cutting and fitting of wood work for the installation of register faces shall be done by the carpenters. -Decision of Conference between representatives of Carpenters, Sheet Metal Workers, Master Carpenters, Master Steam and Hot Water Fitters, Employing Roofers and Sheet Metal Workers, and Metal Covered Door and Window Manufacturers held on February 28, 1907.

223

-Window frames, hollow metal, setting of.

Amalgamated Sheet Metal Workers vs. Carpenters' Union -Ditson Building.

The setting of all hollow metal frames made under conditions as exist per the agreement between the Amalgamated Sheet Metal Workers' Local No. 11 and the Employing Sheet Metal Association, shall be in the possession of the Amalgamated Sheet Metal Workers' Local No. 11 and the Carpenters' Joint District Council, it being understood that neither party will set any frames not manufactured under conditions satisfactory to the Amalgamated Sheet Metal Workers' Local No. 11. -Decision of Executive Committee, March 20, 1907.

223a

-Window stools, and aprons, of hollow steel, setting of.

Carpenters vs. Sheet Metal Workers and S. H. Pomeroy & Co., Inc.- Shelton Building, 49th St. and Lexington Ave.

The complaint is dismissed. -Decision of Executive Committee, August 9, 1923.

224

-Boiler breachings, manufacture of.

Amalgamated Sheet Metal Workers' Union No. 11 vs. Turner Construction Co. -Bay and Provost Sts., Jersey City, N. J.

The work of manufacturing boiler breachings is in the possession of the sheet metal workers. - Decision of Executive Committee, February 14, 1908.

225

-Ventilators, manufacture of.

Sheet Metal Workers' Local No. 11 vs. C. S. Buell Co. -Long Island Station, Flatbush Ave., Brooklyn.

It is the decision of the umpire that the complaint is sustained. -Decision of Umpire (John P. Peters), August 5, 1908.

226

-Ventilators, copper, erection of.

Sheet Metal Workers vs. P. J. Carlin Construction Co.-38th St. and 5th Ave., Brooklyn.

In view Of the decision of the umpire in the case of the Sheet Metal Workers vs. Buell Co., the Executive Committee directs the P. J. Carlin Construction Co. to employ members of Sheet Metal Workers' Local No. 11 to manufacture and set the ventilators in question. -Decision of Executive Committee, April 14, 1909.

226a

-Dampers, In concrete walls, consisting of angle Iron frames and 10 gauge sheet metal, installation of.

Ornamental Iron Workers, Local No. 580 vs. Sheet Metal Workers, Local No. 28-Independent City-owned Subways.

The Committee finds that the work in question is not in the sole possession of either the iron workers or the sheet metal workers.-Decision of Executive Committee, March 25, 1940.

227

-Sheet metal work, tempering coil casings, manufacture of.

Amalgamated Sheet Metal Workers' Local No. 11 vs. Master Steam and Hot Water Fitters' Association-Grand Central Station.

I, therefore, decide that tempering coil casings do not belong to the Amalgamated sheet Metal Workers' Local No. 11, but may be bought by the Master Steam and Hot Water Fitters' Association from firms outside of Greater New York territory as part of the heating and ventilation units manufactured by such firms; and that under the terms of the agreement the Amalgamated Sheet Metal Workers, Local No. 11 must erect such tempering coil casings. -Decision of Umpire (John P. Peters), December 21, 1909.

227a

-Unit vents, Installation of.

Sheet Metal Workers vs. Steamfitters -Anchor Cap Company Building, Long Island City.

In the installation of unit vents, where there is sheet work in connection with the supply and discharge of air, the work is in the possession of the sheet metal worker. -Decision of Executive Committee, November 29, 1929.

227-2a

-Plenums, installation of.

Bricklayers Union Local 34 vs. Sheet Metal Workers Union Local 28.

The installation of masonry materials forming an area used as a plenum is the work of the Bricklayer.

The installation of sheet metal materials forming an area used as a plenum is the work of the Sheet Metal Worker. -Decision of the Executive Committee, August 12, 1970.

227b

-Unit heaters (except electrical) coolers, air conditioners, ventilators and humidifiers, setting of.

In the matter of the petition of the Heating, Piping and Air Conditioning Contractors' New York City Association for a reopening of Case No. 227a because of a dispute between the Enterprise Association of Steamfitters, Local No. 638, and Sheet Metal Workers, Local No. 28, over its application.

The setting of factory-made sheet metal encased assemblies of functional elements, where there is sheet metal work in connection with the air intake and discharge, shall be performed jointly by steamfitters and sheet metal workers. -Decision of Executive Committee, June 16, 1947.

227c

-Unit heaters (except electrical) coolers, air conditioners, ventilators and humidifiers, setting of.

In the matter of the application of the joint adjustment board of the Employer's Association of

Roofers and Sheet Metal Workers of Greater New York and Adjacent Cities, the Heating, Piping and Air Conditioning Contractors' New York City Association, Inc. and Sheet Metal Workers, International Association, Local Union No. 28, for a clarification of Decision 227b of the Handbook, rendered June 16, 1947.

With respect to the setting of factory-made sheet metal encased assemblies of functional elements, where there is sheet metal work in connection with the air intake and discharge, it was obviously the intent of the decision of June 16, 1947, to divide the work in question jointly between steamfitters and sheet metal workers; therefore, it is the decision of the committee that such division of work takes place from the arrival of the units at the point of delivery at the building site to their final positions.-Decision of Executive Committee, February 27, 1948.

227d

-Conduit weathermaster (Carrier), Installation of.

In the matter of the petition of the Enterprise Association of Steamfitters, Local No. 638, because of a dispute with Sheet Metal Workers, Local No. 28-100 Park Avenue, New York City.

The committee finds that the weathermaster, as it is now being installed on the job at 100 Park Avenue, does not come under Decision 227b. -Decision of Executive Committee, October 31, 1949.

228

-Chute, package, sheet metal, manufacture and erection of.

Sheet Metal Workers vs. Sexauer & Lemke -Hallenbeck-Hungerford Building.

The manufacture and erection of chutes of the type referred to in the complaint is work that has been in the possession of the sheet metal workers. -Decision of Executive Committee, July 15, 1914.

229

-Store fronts, sheet metal in connection therewith.

Carpenters vs. Sheet Metal Workem -60th St. and Broadway.

The applying of sheet metal work in connection with store fronts, other than the metal provided for holding glass, is in the possession of the sheet metal workers. -Decision of Executive Committee, April 29, 1915.

The intent of the decision is that the sheet metal holding the glass includes all of the sheet metal frame or sash and that where the sheet metal work in connection with the store front is not sufficient to provide employment to a sheet metal worker for more than one day, it may be applied by a carpenter. -Executive Committee.

230

-Blowers, ventilating, erection of.

Carpenters for Millwrights vs. Sheet Metal Workers -Borough Hall Annex, Brooklyn.

The complaint of the millwrights is dismissed. -Decision of Executive Committee, December 10, 1915.

230a

-Blowers, Installation of.

Sheet Metal Workers, Local 28, vs. Millwrights, -Holland Tubes, Washington and Canal Sts.

The work of installing blowers is covered by Decision No. 230 in the Handbook of the Building Trades Employers' Association as being in the possession of the sheet metal workers, but as the work on this particular job has progressed to such an extent, the Committee recommends that no change be made in the labor at present employed. -Decision of Joint Committee representing the Building Trades Council and the Building Trades Employers' Association, February 8, 1927.

230-2a

-Wooden frames for blower bases, setting of.

Carpenters' District Council vs. Sheet Metal Workers, Local No. 28 -Metropolitan Life Building, Fourth Avenue and 25th Street, New York, N.Y.

The Committee finds that the work in question is not in the possession of a trade. Decision of Executive Committee, March 8, 1932.

230b

-Blowers and fans, for temporary purpose, maintenance of.

Disputes between the Joint Trade Board of Sheet Metal Workers, local No. 28, and the Heating and Piping Contractors' Association. -Job at 52 Wall Street.

The work being installed for ventilating purposes must of necessity be in such a completed condition before it can be operated that it is questionable that a maintenance man is required, and upon the evidence submitted, the Executive Committee finds that where maintenance work has been done it is not in the possession of any one trade. -Decision of Executive Committee, May 8, 1928.

231

-Sheet metal work, corrugated iron sheets, nailing of, to stringers of a fence.

Sheet Metal Workers vs. Carpenters -Turner Construction Co.'s job, Borden Ave., Long Island City.

The Committee finds that the work in question has been heretofore recognized to be in the possession of the sheet metal workers. -Decision of Executive Committee, January 31, 1916.

232

-Partitions, iron, toilet (Weis).

Iron Workers vs. Benj. Riesner and Sheet Metal Workers-23rd St., East of Sixth Ave.

The complaint is dismissed. -Decision of Executive Committee, November 10, 1916.

233

-Range hoods, sheet metal.

Sheet Metal Workers vs. Gaiman Bros. and Iron Workers. -67th St., between Eighth and Columbus Aves.

The work of manufacturing and erecting range hoods is in the possession of the sheet metal workers.
-Decision of Executive Committee, March 6, 1917.

233-A

New York Plan for the Resolution of Jurisdictional Disputes

In the Matter of the Jurisdictional Arbitration
Between

Sheet Metal Workers Local Union #28

And

Electrical Workers Local Union #3

(Award and Opinion)

In accordance with the New York Plan an arbitration hearing was held on April 7th, 2008 between the above named Unions on the question of which is entitled to the work on Range Hoods at a job site at 270 Greenwich Street, New York City.

The Arbitration Board consisted of the Undersigned as Chairman, and Messrs. Philip Altheim, Chris Hargrove, Steven Keriakos and Vic Gany.

Representatives of both Unions appeared and were afforded full opportunity to offer evidence and argument and to examine and cross-examine witnesses. The disputed work involves the handling and installation of range hoods, of two types – center island and wall mounted.

These parties were expressly advised that material to a decision are (1) relevant Green Book Decisions; (2) relevant International or National Union Agreements; and (3) the industry practices in the New York Metropolitan geographic area.

Local 28, the claimant, relies in significant part on a Green Book Decision, namely Decision #233 which reads:

Range hoods, sheet metal. Sheet Metal Workers v. Garman Bros. and Iron Workers – 67 St. between Eighth and Columbus Aves.

The work of manufacturing and erecting range hoods is the possession of the sheet metal workers.

Decision Executive Committee, March 6, 1917

Local 28 also submitted evidence from various contractors, attesting to the use of sheet metal workers for the handling and installation of range hoods.

Local 3 disputes the applicability of a 1917 Green Book Decision. It asserts that that decision was primarily directed to the manufacturer of commercial range hoods (and not residential as is the case here) and of a wholly different type than the hoods here in dispute which were not

invented until 46 years later. It also submitted evidence of practices by various contractors, using Local 3 member on the type of work involved in this case. However, the significant difference between the parties is a narrow one. It concerns whether the hoods have ducts or are ductless. Local 28 contends the former and Local 3, the latter. Local 3 concedes that if the hoods are attached to a duct system the instant disputed work belongs to the sheet metal workers. But that no ducts are part of the instant installation. Both sides submitted documentary evidence in the construction and operation of the hoods in question, and other types of range hoods as well.

Based on all the evidence and testimony, the Board of Arbitration concluded that the type of range hoods at 270 Greenwich Street, though not connected to a duct system exiting to the outside, had within them ducts designed to dissipate the smoke and odors within the hood or within the room in which the range hood was located.

Therefore the Board decided that the instant disputed hoods were not “ductless” as contended by Local 3. But that because they contained, integrally, a duct mechanism or component, the Green Book Decision #233 still obtains. And the work involved with those hoods belongs to Local 28 Sheet Metal Workers.

Eric J. Schmertz
Chairman

DATED: April 10, 2008

234

-Partitions, sheet metal, toilet room (Carpenter).

Sheet Metal Workers vs. Carpenters and Win. Steele & Sons. -Wanamaker Garage Building.

The erection of the sheet metal toilet room partitions manufactured by the R. F. Carpenter Manufacturing Company, of Cleveland, Ohio, is in the possession of the sheet metal workers. - Decision of Executive Committee, June 14, 1917.

234a

-Partitions, steel, erection of.

Sheet Metal Workers vs. Carpenters-Girls' Commercial High School, Classon Avenue and Eastern Parkway, Brooklyn.

The Committee recommends that the steel partitions in the shower room of the Girls' Commercial High School, Classon Avenue and Eastern Parkway, Brooklyn, be erected by sheet metal workers; and further recommends that the question of the line of demarcation between the types of steel toilet partitions and doors be submitted to a special board of arbitration. -Recommendation Committee, October 29, 1924.

234-2a

-Dressing rooms metal, erection of-

Housesmiths, Local No. 52 vs. Sheet Metal Workers, Local No. 28. -Tenth Avenue and 24th Street, New York, N.Y.

The Committee finds that the work in question is not in the possession of a trade. -Decision of Executive Committee, September 3, 1931.

235

-Sheet metal work, casing for concrete piles.

Sheet Metal Workers vs. J. Wright Taussig. -Brooklyn Navy Yard and other jobs.

The Executive Committee finds that the patent pile casing and the stamped point is work that is not covered by the sheet metal workers' trade agreement; repairing of casings and other sheet metal work must, however, be done by sheet metal workers. -Decision of Executive Committee, July 24, 1917.

235a

-Sheet metal coverings for pipes, installation of.

Sheet Metal Workers, Local No. 28 vs. Plumbers, Local No. 463 Madison Avenue and 73rd Street, New York, N. Y.

The plumbers conceded the work in question after viewing 119 samples of the material submitted, therefore, the Committee finds that the work is in the possession of the sheet metal workers. - Decision of Executive Committee, May 6, 1937.

236

-Column forms, concrete bracing

Carpenters, Union vs. Turner Construction CO. and Workers -Brooklyn Navy Yard.

The complaint is dismissed. -Decision of Executive Committee. July 24, 1917.

237

-Register faces, 12 gauge sheet metal.

Sheet Metal Workers vs. Iron Workers (Housesmiths' Finishers) and Wells Architectural Iron Co. -St. Bartholomew's Church, 50th St. and Park Ave.

The work of setting the sheet metal faces on the job in question is work that is in the possession of the sheet metal workers. -Decision of Executive Committee, May 7, 1918.

238

-Shutters, rolling, erection of In connection with package chute Installation.

Iron Workers (Housesmith's Finishers) vs. Sheet Metal Workers -Naval Base, South Brooklyn.

The complaint is dismissed. -Decision of Executive Committee, November 19, 1918.

239

-Ranges, gas, setting of.

Sheet Metal Workers vs. Plumbers -Pennsylvania Hotel.

The installing and setting of the battery of ranges in question (contract of the W. G. Cornell Co.) is work that is in the possession of the sheet metal workers. -Decision of Executive Committee, December 20, 1918.

239a

-Lining, metal, and cabinets for kitchen equipment, installation of.

Sheet metal Workers, Local No. 28 vs. Carpenters' District Council -Dauphin Hotel, Broadway and 67th Street, New York, N.Y.

The Committee finds that the installation of the metal lining and the cabinets for the kitchen equipment as installed on the job in question is the work of the sheet metal worker. -Decision of Executive Committee, November 13, 1933.

240

-Sheet metal work, roofing, corrugated iron, asbestos and paint coated.

Sheet Metal Workers vs. Iron Workers and Austin Company -Long Island City.

The applying of corrugated sheet metal roofing is work that is in the possession of the sheet metal workers. -Decision of Executive Committee, July 21, 1919.

240a

-Roofing, Sheet metal, Holorib or Truscon type, installation of.

Sheet Metal Workers vs. Iron Workers, -Curtiss Air Field, Long Island.

The work of installing sheet iron roofing of the type at the Curtiss Air Field is in possession of the sheet metal worker. -Decision of Executive Committee, November 29, 1929.

240-2a

-Iron forms, (Robertson Keystone type) installation of.

Sheet Metal Workers, Local No. 28 vs. Iron Workers, Local No. 361 -Heinz Warehouse, Borden Avenue, Long Island, N. Y.

The Committee finds that where the material in question is used for a floor of a building, it is work that is in possession of the iron worker, and where it is used in connection with a roof, it is work that is in the possession of the sheet metal worker. -Decision of Executive Committee, December 17, 1935.

240-3a

-Standing seam rib roof system, metal, installation of.

Sheet Metal Workers Local Union No. 28 vs. Carpenters District Council - Asphalt Green, New York City, New York.

The Executive Committee finds that the installation of a metal standing seam rib roof system is the work of Sheet Metal Workers Local Union No. 28 - Decision of the Executive Committee, April 15, 1993.

240b

-Sheathing, corrugated asbestos 3/8" thick clipped on, application of.

Brotherhood of Carpenters vs. Sheet Metal Workers -Airport, North Beach, L.I., N.Y.

The complaint is dismissed. -Decision of Executive Committee, September 30, 1930.

240c

-Sheet metal work, corrugated siding, application of.

Iron Workers vs. Sheet Metal Workers - Kent Avenue Power Station, Brooklyn, New York, and 74th Street Power Station, New York City.

Where corrugated sheet metal is applied to steel frame construction for both the roof and siding, it shall be the work of the Sheet Metal Worker; where corrugated sheet metal is applied to steel frame construction for the siding only, it shall be the work of the Iron Worker - Decision of Executive Committee, May 1, 1957.

The Joint Board, on the basis of evidence and arguments presented by the two international unions at the oral appeals hearing on August 8, 1957, voted to make the following job decision: The Joint Board finds that the decision rendered by the Executive Committee of the Board of Governors of the Building Trades Employers' Association of the City of New York is contrary to the decision of record of May 26, 1923, and the Joint Board directs that the work in dispute be assigned in accordance with this decision which reads as follows:

"The erection of corrugated metal sheeting on steel frames construction when the sheets are simply end and side lapped is the work of the Iron Workers, the erection of all other corrugated metal sheeting of No. 10 gauge or lighter is the work of the Sheet Metal Workers, and shall be assigned to the Iron Workers."

240d

-Exterior face of exterior closure wall fastened to structural steel framing, installation of, where roof is not sheet metal fastened to structural steel frame.

Ornamental and Architectural Iron Workers Local Union No. 580 vs. Sheet Metal Workers Local Union No. 28, -Northwest Orient Airlines Terminal, Idlewild Airport, New York City.

The installation of the porcelain enamelled panels forming the exterior face of the exterior closure wall fastened to the structural steel framing is the work of the Iron Worker. The balance of the metal work forming the exterior face of the exterior closure wall is the work of the Sheet Metal Worker. -Decision

of the Executive Committee, May 2, 1962.

Upon rehearing it is the decision of the Executive Committee that the decision of the Executive Committee 240d of May 2, 1962, is reaffirmed. -Decision of the Executive Committee, June 20, 1962.

241

-Column forms.

Sheet Metal Workers vs. Carpenters and H. D. Best Co.-55th St. and Second Ave., Brooklyn.

We find that the setting of the sheet metal column forms in question is work that has heretofore been recognized to be and is now in the possession of the sheet metal worker.-Decision of Joint Committee representing the Building Trades Employers' Association and the Building Trades Council (Charles J. Kelly, John T. Taggart, Albert F. Day), June 30, 1920.

241a

-Forms, erection of.

Sheet Metal Workers' Union, Local 28 vs. New York District Council, United Brotherhood of Carpenters-Power House, 134th St. and Long Island Sound.

The matter in dispute between the Sheet Metal Workers and the Brotherhood of Carpenters, as submitted to the arbitrators is as follows:

“Shall the sheet metal forms now being used in the Power House, 134th Street and Long Island Sound, be erected by the carpenters or by the sheet metal workers?”

The arbitrators, having failed to agree, I, as umpire, decide that as these metal forms are frequently delivered at the building in 0 unfinished condition and have to be assembled and bolted together there, and as they are sometimes cut and reshaped before they can be used again, and as they are of such light metal that they are unable to do what they were originally intended to do, and to be made available are in many instances lined with wood and also braced with wood so they may withstand the pressure of the concrete when it is poured, and they must be plumbed and trued:

That, as the work necessary to make these forms complete as a finished whole requires the services of both these trades, from economic and equitable standpoints, this work should be equally divided between them (sheet metal workers and carpenters. -Decision of Umpire (Frank E. Conover), August 11, 1921.

242

-Skylights, erection of.

Sheet Metal Workers' Union vs. Iron Workers' Union and the Turner Construction Company -Western Electric Building, Hudson and West Houston Sts.

The Committee finds that the work of erecting skylights of the type in question has been and is now in the possession of the sheet metal workers. -Decision of Executive Committee, January 20, 1921.

243

-Door-bucks, steel (10 gauge), erection of in entrance platforms.

Iron Workers vs. Sheet Metal Workers and Charles Hartman Co. -Western Electric Building.

The complaint is dismissed. -Decision of Executive Committee, May 6, 1921.

244

-Door frames, Ogden, covering of.

Sheet Metal Workers vs. J. Edward Ogden Co. -Henry St. Pier, Brooklyn.

The work of covering the Ogden door frames with sheet metal work that has been heretofore recognized to be in the possession of the sheet metal workers. -Decision of Executive Committee, June 8, 1921.

244a

-Gas flue, 10-gauge, erection of.

Iron Workers vs. Sheet Metal Workers -Park Lane Building, Madison Ave. and 49th St.

The complaint is dismissed. -Decision Of Executive Committee, July 12, 1923.

244-2a

-Flues, smoke or incinerator, No. 10 gauge or lighter, erection of.

Sheet Metal Workers, Local No. 28 vs. Housesmiths, Local No. 52150 Central Park South, New York, N. Y.

The Committee finds that the erection of smoke or incinerator flues of No. 10 gauge or lighter is work that is in the possession of the sheet metal worker. -Decision of Executive Committee, April 27, 1931.

244-3a

-Piping (Transite) conveying laboratory fumes, Installation of.

Asbestos Workers, Local No. 12 vs. Sheet Metal Workers, Local No. 28 -Brooklyn College, Ocean Avenue and Avenue H, Brooklyn, N.Y.

The complaint is dismissed. -Decision of Executive Committee, October 7, 1936.

244b

-Radiator enclosures, metal, installation Of-

Sheet Metal Workers vs. Carpenters -Dorset Apartments, 54th between Fifth and Sixth Aves.

The Committee finds that the work is not in the possession of a trade. -Decision of Executive Committee, September 8, 1926.

244-2b

-Radiator enclosures, metal, Installation of.

Sheet Metal Workers, Local No. 28 vs. Carpenters' District Council -Second Avenue and 22nd Street, New York, N. Y.

The Committee finds that the setting of radiator enclosures of the type as installed on the job in question is work that is in the possession of the sheet metal worker. -Decision of Executive committee, September 10, 1931.

244-3b

-Radiator enclosures, metal, Installation of.

Sheet Metal Workers, Local No. 28 vs. Housesmiths, Local No. 5 and Campbell Metal Window Corporation -Rockefeller Center, Fifth and Sixth Avenues, 48th to 50th Streets, New York, N. Y.

The complaint is dismissed. -Decision of Executive Committee, October 11, 1932.

244c

-Radiator enclosures, metal, with brackets and angles, back lining of.

Sheet Metal Workers vs. Steamfitters -93rd St. and Park Ave.

The complaint is dismissed. -Decision of Executive Committee, August 27, 1929.

244-2c

-Radiator enclosures, metal, installation of.

Sheet Metal Workers vs. Steamfitters, -91st Street and Central Park West.

The setting of the radiator enclosure of sheet metal, where it does not support the radiator, is the work of the sheet metal worker. -Decision of Executive Committee, July 10, 1930.

244-3c

-Sheet metal casings, for beating units, columnar, installation of.

Sheet Metal Workers, Local No. 28 vs. Enterprise Association of Steamfitters, Local No. 638 - Southeast corner of Third Avenue and 16th Street

The Committee finds that the complaint of the sheet metal workers that steamfitters are doing sheet

metal work on the casings for Columnar heating units is sustained. -Decision of Executive committee, February 24, 1931.

244-4c

-Radiator enclosures, metal\$ handling and setting Of-

Sheet Metal Workers, Local No. 28 vs. Enterprise Association Of Steamfitters, Local No. 638 -Ascan Avenue and Austin Street, Forest Hills, L.I., N.Y.

The Committee finds that the work in question is the work of the sheet metal workers and, where the radiator and enclosure come as one unit, the handling and setting is in the possession of the steamfitter. -Decision of Executive Committee, June 30, 1931.

244d

-Ceilings, acoustic, of metal and mineral wool, installation of,

Sheet Metal Workers vs. Carpenters-Western Union Building.

As a complaint was filed by the sheet metal workers in March on the first job of this kind, the Committee cannot consider question of possession, and as this is a new material and as new methods of installation are used, the Committee recommends that the dispute between the sheet metal workers and the carpenters be submitted to a special board of arbitration, in accordance with the provisions of the Arbitration Plan. -Decision of Executive Committee, October 8, 1929.

244-2d

-Ceilings, acoustic, of metal and mineral wool, Installation of.

sheet Metal Workers vs. Carpenters-Western Union Building', Ibor,las, Worth and Hudson Streets and West Broadway.

The installation of acoustic ceilings of metal and mineral wool of the type installed at the Western Union Building, is in the work of Local Union No. 28 of New York and Vicinity, Sheet Metal Workers international Association. -Decision of Special Arbitration Board (P. i. Commerford, Michael J. McCluskey), January 9, 1930.

244-3d

-Ceilings, sanacoustic tile, of metal and of mineral wool, installation of.

Metallic Lathers, Local No. 46 vs. Sheet Metal Workers, Local Union No. 28 -New York Telephone Building, Lispenard and Walker Streets, New York, N. Y.

The Committee finds that the work in question covered by Decision 244-2d of the Handbook, and therefore, dismisses the complaint. -Decision of Executive Committee, February 18, 1932.

244-4d

-Ceiling, Alcan Aluminum or similar, Installation of.

Sheet Metal Workers Local Union 28 vs. Carpenters District Council- Augustus Long Library, Columbia University and Bowling Green Subway Station, New York City.

The Executive Committee Finds that the installation of Alcan Aluminum Ceiling or similar is the work of the Sheet Metal Workers Local Union 28. -Decision of the Executive Committee, February 3, 1976.

244e

-Spandrels, metal, installation of.

Housesmiths vs. Sheet Metal Workers, -Downtown Athletic Club, 17 West Street.

The Complaint is dismissed. -Decision of Executive committee, December 27, 1929.

244f

-Door frames with sheet metal, covering of.

Sheet Metal Workers, Local No. 28 vs. International Association Bridge, Structural and Ornamental iron Workers, Local NO. 447 -Pier 88, North River and 48th Street, New York, N.Y.

The complaint is dismissed. -Decision of Executive committee, May 28, 1935.

244g

-Casings and pans, sheet metal plates, for watercooling towers, erection of.

Sheet Metal Workers, Local No. 28 vs. Ornamental Iron Workers, Local No. 580, Goldsmith Building, Nassau and John Streets New York, N.Y.

The complaint is dismissed. -Decision of Executive Committee, June 24, 1941.

244h

-Water cooling towers, steel, erection of.

Structural iron Workers, Local No. 40 vs. Sheet Metal Workers Local No. 28- Park Avenue and 59th Street, New York, N.Y.

Where any of the steel members are three inches, or larger, their erection is the work of the iron workers.

All sheet metal of ten gauge, or lighter, is the work of the sheet metal workers. -Decision of Executive Committee, June 10, 1947.

-Sheet Metal Workers Local 28 & Carpenters Local 608 and 157

The Installation of Snap-In Metal Pan Ceilings

300 Madison Ave.	Turner Construction
AOL Time Warner	Bovis Lend Lease
Columbus Circle	
Columbia Presbyterian Hospital	

The Arbitration Panel determined that the work in question was different than the initial claim of The Installation of Snap-In Metal Pan Ceilings filed by the Sheet Metal Workers Local 28.

The Arbitration Panel determined that the Work In Question should be amended to be "The Installation of Torsion Spring Panel Ceilings" rather than the Installation of Snap-In Metal Pan Ceilings.

The Arbitration Panel then reviewed the International Agreement between the trades effective April 1, 1978 and reaffirmed on May 31, 1995. The Panel determined that the amended work in question did not meet the definition in the International Agreement of Paragraph 1 (a) for "All snap-in metal pan and/or snap-in metal panel type suspended metal ceiling systems"; or Paragraph 1 (b) "Direct hung or wall hung metal pan/or metal panel type ceiling systems" that was the work assigned to the Sheet Metal Workers under the International Agreement.

The Arbitration Panel then reviewed the evidence and testimony presented at the hearing based on the established trade practice and prevailing practice in Greater New York geographical area as they are required to do under the provisions of the New York Plan For The Resolution of Jurisdictional Disputes.

- 1 New York Plan for the Resolution of
- 2 Jurisdictional Disputes
- x
- 3 In the Matter of the Arbitration
- 4 Between
- 5 SHEET METAL WORKERS LOCAL UNION 28
- 6 -and-
- 7 BRICKLAYERS LOCAL UNION 1.

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1

1 NEW YORK PLAN FOR THE RESOLUTION OF
2 JURISDICTIONAL DISPUTES

3 -----x

4 In the Matter of the Arbitration

5 Between

6 SHEET METAL WORKERS LOCAL UNION 28

7 -and-

8 BRICKLAYERS LOCAL UNION 1.

9 -----x

10

11 1430 Broadway
12 New York, New York

13 January 22, 2008
14 10:30 a.m.

14

15

16 OPINION AND AWARD

17 OF

18 ERIC J. SCHMERTZ, CHAIRMAN

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PROCEEDINGS

CHAIRMAN SCHMERTZ: Under the rules and procedures of the New York plan for the resolution of jurisdictional disputes and the project labor agreement between the Building and Construction Trades Council of Greater New York and City Field, the sheet metal workers union, Local 28, filed a demand for arbitration in connection with work identified as through wall flashing at City Field, Queens, New York.

Due notice of a scheduled hearing on January 22, 2008 was served on the two aboved-named unions. At the scheduled hearing on January 28, 2008,

17 representatives of the sheet metals
18 workers union 28 appeared.

19 Representatives of the bricklayers
20 union expressly informed the BTEA that it
21 would not appear or participate. Also,
22 it failed or refused to name a designee
23 to the board of arbitration.

24 In accordance with the rules and
25 procedures of the New York plan, a board

3

1 PROCEEDINGS

2 of arbitration was constituted consisting
3 of the undersigned as chairman and
4 Messrs. Robert J. Ansbrosio, Lee R. Zaretsky
5 and Bruce Cohen (said panel constituted a
6 quorum under the plan).

7 The board of arbitration ruled that
8 the hearing proceed and the proofs and
9 allegations of the sheet metal workers
10 Local 28 were heard.

11 Based on the unrebutted evidence
12 submitted by the sheet metals workers
13 union 28 and the in the willful absence

14 of evidence and/or representation from
15 the bricklayers Local Union 1, the board
16 of arbitration makes the followed award:

17 The through wall flashing work at
18 City Field Queens, New York is the work
19 of and belongs to the sheet metal workers
20 union Local 28.

21

22 -----

23 ERIC J. SCHMERTZ

24 CHAIRMAN

25

244k

The Installation of Through Wall Flashing and Coping

Sheet Metal Workers Local 28 vs Bricklayers Local 1--Citifield, Queens, NY

An NY Plan Arbitration hearing was held on January 22, 2008 on the Installation of Through Wall Flashing and Coping. The Bricklayers Local 1 decided not to participate in the hearing. The Arbitration Panel awarded the work in question to the Sheet Metal Contractors Local 28.

On January 29, 2008 the Bricklayers Local 1 filed an appeal of the above NY Plan decision to the National Plan for the Resolution of Jurisdictional Disputes.

On February 11, 2008, the National Plan asked the NY Plan to respond with additional information so that it could render its decision as to whether it would grant the appeal.

On March 6, 2008, Arbitrator Eric Schmertz submitted an amended decision to the National Plan in response to the issues raised in their February 11, 2008 letter.

On March 21, 2008, the National Plan For The Resolution of Jurisdictional Disputes denied the appeal of this decision.

244-K Appeal

On January 28, 2008 the Bricklayers Local 1 filed an appeal to a Green Book Decision to the National Plan for the Resolution of Jurisdictional Disputes. On February 11, 2008 the administrator and counsel of the plan determined to leave it to the NY Plan to determine how to process this remand under its procedures.

On April 7, 2008 the Bricklayers Local 1 filed a federal lawsuit against the New York Plan to over-turn the arbitration decision.

On July 3, 2008 the NY Plan and Bricklayers Local 1 entered into a settlement agreement by which the decision was determined to be null and void because the Bricklayers did not agree to use the NY Plan in the Project Labor Agreement they were signatory to.

244-L

The Installation of 16 Gauge Security Ceiling

Sheet Metal Workers Local #28 vs. Carpenters Local #608 – Rikers Island

The work of installing 16 gauge Security Ceilings at Rikers Island belongs to and should be assigned to Sheet Metal Workers Local #28.

A hearing was held on April 15, 2009 at which time representatives of both the above named unions appeared, and were afforded full opportunity to offer evidence and argument and to examine and cross-examine witnesses. Messrs. Patrick Barrett, Ciro Lupo and Victor Gany served as members of the arbitration panel. Mr. Lee Zaretsky, the designee of the Carpenters Union to the panel failed to attend. The undersigned served as the Panel Chairman.

The parties were expressly advised by the chairman that the priority of the evidence under the New York Plan as (1) Green Book decisions that are applicable; (2) International Agreement between unions involved that are applicable and absent to those (3) the industry practices in the geographical area.

Here, the Panel finds that an International Agreement and a Green Book Decision are applicable and controlling. Dated April 1, 1978 the Internaitonals of the Carpneters Union and the Sheet Metal Workers agreed in written agreement inter alia that:

“Direct” hung or “wall” metal pan and/or metal type ceiling systems shall be installed in their entirety by members of the Sheet Metal Workers International Association.”

This Agreement was codified and confirmed in Green Book Decision 244-I which stated inter alia:

“Direct hung or wall hung metal pan and/or metal panel type ceiling systems...was work assigned to the Sheet Metal Workers under the International Agreement.”

It is not disputed that the instant work is of the type that falls within the forgoing definition. However, it is the Carpenter’s position herein that the forgoing International Agreement was “abrogated” by letter of March 2, 2005 from the General President of the Carpenters Union to the General President of the Sheet Metal Workers, and that thereore, reliance by the Sheet Metal Workers on that International Agreement (and by logic, Green Book Decision 244-i) is no longer valid.

The panel disagrees. The stated “abrogation” was unilateral. As a matter of law, a bi-lateral agreement (i.e. the International Agreement) can only be rescinded or “abrogated” by bi-lateral

action and agreement. There is no evidence that the Sheet Metal Workers agreed to, accepted or even acquiesced in any such “abrogation”.

Accordingly, the International Agreement of April 1, 1978 and its reference and affirmation by Green Book Decision 244-I remains valid and enforceable, and are determinative in this case.

I, Eric Schmertz do hereby affirm upon my Oath as Arbitrator that I am the individual described in and who executed this instrument, which is my Award.