Award No. 4978
Docket No. CL-4890

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Robert O. Boyd, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS, FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES

LEHIGH VALLEY RAILROAD COMPANY

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

1. That the Carrier violated the existing clerical agreement when it assigned work of transporting material by motor truck to employes outside the clerks' agreement Sunday, September 26, 1948, from Sayre, Pa. to Coxton, Pa.

2. That Stores Department Truck Driver Glenn Roberts, Sayre, Pa., be compensated nine (9) hours at punitive rate of $1.72 per hour, amount claimed $14.78, for time lost due to this violation.

EMPLOYES' STATEMENT OF FACTS: Mr. Glenn Roberts is the regularly assigned truck driver in the Stores Department, Sayre, Pa., with hours of service 7:00 A.M. to 3:25 P.M. (25 minutes for lunch), rate of pay $233.12 per month, six days per week—daily except Sunday. His seniority date is April 16, 1924 on the Stores Department Roster.

On Sunday, September 26, 1948, two pairs of mounted 5½x10 coach wheels on hand in the Carrier's shops at Sayre, were required by the Car Department at Coxton, Pa. The distance between Sayre and Coxton is 87 miles. Claim for nine hours is on the basis of the trip to Coxton and return trip to Sayre.

On the date in question no effort was made by the carrier to call Mr. Roberts for this class of service which is performed six days per week by the Stores Department truck and in the event material was to be transported by motor truck on Sundays or outside the regular hours, the Stores Department truck driver has always been used.

However, on Sunday, September 26, 1948, Maintenance of Way Truck No. T-98 and Truck Driver M. Pryslopski, whose seniority is carried on the Maintenance of Way roster, were used to transport this shipment from Sayre, Pa., to Coxton, Pa.

Correspondence in connection with this claim is reproduced:

"Sayre, Pa., October 11, 1948
A-114 LS

"Mr. Glenn F. Roberts:

"I have your claim of September 26 for 9 hours punitive overtime because of MW truck going to Coxton with pair of coach

excluding M. of W. and M. of E. Departments from hauling any of their own desired material, and this is clearly beyond the authority of this Board. See Award No. 1149.

The facts presented in this submission were made a matter of discussion with the Committee in conference on the property.

OPINION OF BOARD: The Maintenance of Equipment Department at Coxton required, on a Sunday, two pair of coach wheels which were on hand in the Carrier's shops at Sayre, a distance of 87 miles away. The Maintenance of Equipment truck was too small for the job. There is a dispute as to whether the Stores Department truck at Sayre was in suitable condition for such a job, but, in any event, the Carrier used a Maintenance of Way truck.

The regularly assigned truck driver for the Stores Department at Sayre presented a claim for nine hours at time and one-half, the claim being premised on Rule 18 of the Clerks Agreement that gives preference to regularly assigned employes when overtime is to be performed on their regularly assigned class of work.

The Clerks' Agreement includes in the Scope Rule the classification "Auto Truck Operators (Stores Department)", and the claim is valid provided the Agreement gives the Organization the exclusive right to transport supplies (Stores) from the Carrier's warehouse.

The basic question prescribed by this claim is: what is the nature and scope of work intended by the parties to be covered by the Clerks' Agreement. The Carrier admits that truck operators under the Clerks' Agreement have the right to handle Stores Department material in transporting it between the storehouse and passenger station or between storehouse and loading place where stores are to be moved by freight train. They deny that it has been the practice to give the Stores Department the exclusive right to transport material and supplies from a store house and deliver it to the place where it is to be used. The Employes admit that they have no right to movement of heavy stores which is done by train, and their submission contains no specific reference to the practice, claimed by Carrier, for trucks of other departments to move supplies from stores to place where they are required for use.

There is nothing in the submissions to show that trucks operated in the Maintenance and Equipment Departments are limited to special uses or purposes; and it may be presumed that the trucks used in these departments are capable of performing general hauling. Such requirements would include the hauling of material and supplies from whatever place they may be obtained to wherever the supplies or materials may be required by the respective departments. If the Stores Department truck has the exclusive right to transport supplies from wherever they may be held in reserve by the Carrier to the place where needed, then there would be little need for the general purpose trucks of the other departments.

Under the circumstances where several departments are operating their own trucks, there is bound to be some overlapping in work. It appears that trucks were operated by the Maintenance of Way and Maintenance of Equipment Departments when the Clerks' Agreement was adopted. Thus, when the parties entered into an agreement restricting auto truck operators under the Clerks' Agreement to "Stores Department", they did not intend that such truck operators would have the exclusive right to the work of transporting supplies from a reserve stock to the place where they were to be used by another department. It follows, therefore, that the claimant did not have the exclusive right to the work described in this case.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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

The Carrier did not violate the Agreement.

AWARD

Claims denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 31st day of July, 1950.