



Award No. 14930
Docket No. CL-13755

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Daniel House, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYEES**

**CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL 5244) that:

1. Carrier violated and continues to violate the Clerks' Rules Agreement when it removed work covered thereby and assigned it to outsiders holding no seniority or employee status in the Store Department, Seniority District No. 118.

2. Carrier shall now be required to return the chauffeur work, which was a part of Position No. 425, in connection with the hauling of refuse and rubbish throughout the Milwaukee Terminal and Shops to Store Department employees in Seniority District No. 118.

3. Carrier shall now be required to compensate employee Herman Janke, Sr., the regular occupant of Chauffeur Position No. 425, his successor or successors, if there be any, an additional day's pay at the pro rata rate of Chauffeur Position No. 425 commencing 60 days retroactive from June 28, 1961 and for each day thereafter that the violation continues.

NOTE: Reparation due employees to be determined by joint check of Carrier payroll and/or other records.

EMPLOYEES' STATEMENT OF FACTS: For approximately twenty years prior to April 1961, placing supply refuse and rubbish boxes throughout Milwaukee Terminal and Shops and hauling loaded refuse and rubbish boxes to the disposal point located at the South Crane Milwaukee Shops, has been a duty assigned to and performed by Store Department employees in Seniority District No. 118. The boxes were then unloaded at that point by an overhead crane. Rubbish which could be burned was placed next to the incinerator. Other rubbish and refuse was placed in gondola cars for movement by rail to Merton Dump at Merton, Wisconsin.

OPINION OF BOARD: Prior to April 4, 1961, an employe covered by the Agreement placed rubbish boxes at various locations throughout the Milwaukee Shops and Terminal of Carrier and, after they were filled by shopmen and others, picked them up with a "Ross Carrier" and took them to the incinerator area at the South Crane at Milwaukee Shop; employes not covered by the Agreement removed the boxes from the "Ross Carrier," sorted the rubbish into combustibles and non-combustibles and disposed of it. Beginning on April 4th Carrier had a subcontractor using a Dumpster self-loading refuse truck, remove the rubbish from the boxes at their locations without removing the boxes, and dispose of it outside the shop. The change was made, according to Carrier, because of the difficulty it was having disposing of the rubbish without complaint by municipal authorities at Milwaukee and at Merton at which locations it had previously disposed of the rubbish by burning and dumping.

Employes contend that the change removed work from the scope and application of the Agreement in violation of the Scope Rule and Rule 57 by transferring it to the subcontractor. Carrier contends that the work was not removed from the Agreement and given to the subcontractor, but was, in fact, eliminated, with no violation of the Agreement.

It is clear from the record that all handling of rubbish has not been performed exclusively by Employes under their Agreement, but by workers covered by many other agreements as well. The work here involved attaching to Claimant's position must be closely defined: from the record we find that it was the placing of rubbish boxes at various locations and the moving of those boxes when filled to a particular location in the Milwaukee Shop. This is not the work which Carrier contracted out; it is work which has been eliminated and is now done by no one. Thus the Claim must fall because the facts do not support the basic allegation that work was transferred outside the coverage of the Agreement.

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 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

That the Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 15th day of November 1966.

Keenan Printing Co., Chicago, Ill.

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