



Award Number 17468

Docket Number CL-18057

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Arthur W. Devine, Referee

PARTIES TO DISPUTE:

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

THE ALTON AND SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6535) that:

- (a) The Carrier violated the rules of the Clerks' Agreement at East St. Louis, Illinois, when on June 17, 18, 24, 25 and July 1, 2, 8, and 9, 1967, it assigned the work of servicing water coolers and placing supplies for the use of switchmen in the shantys at Davis Yards to employees not subject to the scope and application of the Clerks' Agreement, and that:
- (b) Mr. James R. Keeney shall now be allowed three hours pay as reparation for each day the violation occurred.

EMPLOYEES' STATEMENT OF FACTS: For many years prior to June 17, 1967, employees subject to the scope and application of the Clerks' Agreement exclusively performed the work of filling the water coolers used by switchmen, and placing cups and towels in the shantys used by the switchmen in Davis Yards. For many years this work was regularly assigned to the occupants of position of Chauffeur on his regularly assigned work days and he was called to perform this work on a call basis on his regularly assigned rest days. When the Chauffeur to whom this work was regularly assigned was unable to perform the work it was then required of storehouse employees subject to the scope and application of the Clerks' Agreement, who performed it in the same manner as did the Chauffeur. This practice continued without interruption until June 17, 1967, at which date the carrier ceased calling the occupant of the position to which the work was regularly assigned on the work days of his work week, to perform the work on his assigned rest days on a call basis, and had it performed on the regular employees' rest days by an employee, or employees, not subject to the scope and application of the Clerks' Agreement and who held no seniority under the Clerks' Agreement.

On each of the dates of claim, claimant filed a daily time return for three hours pay at straight time, saying:

"On the above date the caboose man in the yards serviced the ice and water container, which is my job throughout the week."

Under date of July 26, 1967, Mr. C. D. Bruder, an officer of the carrier declined payment of the claims and wrote Mr. Keeney as follows:

the duty of servicing the drinking water coolers which had been placed in the temporary shantys on the two yard leads where flat switching was being performed.

Other than the drinking water containers placed in the temporary shantys, all other drinking water facilities in permanent buildings in Davis Yard are electric drinking fountains.

Claims were filed by the Local Chairman for a call on various dates because of maintenance of way employees placing water and ice in water coolers in the temporary shantys for the use of switchmen. Carrier denied these claims, stating:

"This work is not reserved either by practice or by contract to any particular craft or class of employees."

On appeal, the highest designated officer, Assistant General Manager Maher, declined the claims, stating:

"The work of servicing water coolers is not work which is reserved to clerks on this property by rule or by agreement and, therefore, may be performed by employees other than clerks. Water coolers in the past have been serviced by maintenance of way employees, shop employees, signal employees and others."

The dispute was not settled on the property, and we are in receipt of a copy of the Clerks' Notice Of Intent to progress the claims to the Board.

(Exhibits not reproduced)

OPINION OF BOARD: The claim in this docket, as handled on the property, involves the servicing of water coolers used by switchmen in shanties at Davis Yard. The record reveals that Claimant performed the work for this specific location during the week and had been called to perform same on his rest days. On the claim dates, which were Claimant's rest days, a caboose man (MofW employee) was used to perform the work, hence, the claim.

While there is considerable discussion in the record as to whether the involved work is exclusive to employees covered by the Agreement, we need not decide the claim on that basis and make no ruling thereon. Rather, it was asserted on the property, and at no time denied, that Claimant performed the work for the specific location involved during the week. That being so, he should have been used on the claim dates. Accordingly, the claim will be sustained.

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 violated.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 18th day of September 1969.