



Award Number 17478

Docket Number CL-17777

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Robert C. McCandless, Referee

PARTIES TO DISPUTE:

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

THE BELT RAILWAY COMPANY OF CHICAGO

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6458) that:

1. The Carrier violated the Clerks' Agreement when it utilized the services of outsiders having no previous employment relationship or seniority, on an extra basis to relieve temporary vacancies and/or positions pending assignment by bulletin, rest day work and such extra work as may occur.
2. That employes with established seniority rights, who were available, willing, able and qualified to perform the work in question be allowed a day's pay, at the applicable overtime rate of the position and/or work involved effective with the period here involved, namely, March 23, 1967 to and including July 23, 1967 and continuing thereafter until corrective measures are applied.
3. The names of Claimants, dates on which the violation occurred, the rates of pay involved, vacancy and/or work involved and the names of the outsiders used for the performance of the work in question have been furnished to the Carrier at all stages of handling, and are attached hereto as Appendix "A".

EMPLOYES' STATEMENT OF FACTS: The Carrier performs switching and transfer service in the Chicago Switching District with line haul and other switching carriers, and in addition serves industries along its line of railroad. It maintains yards at South Chicago, 87th Street, West 22nd Street and Clearing, Illinois. Each of the four locations are from two to twenty miles apart. Its largest car handling operation is performed at Clearing Station. It maintains office forces at different locations in Clearing such as, the East and West Yard Office East and West sub-offices and Agent's Central Office. Each of the locations are from one to two miles apart and collectively they are known as part of the Clearing facility.

Prior to March 1, 1964, or the execution of a new agreement, which became effective March 1, 1964, all of the aforementioned locations at Clearing, as well as the Yards located at South Chicago, 87th Street and West 22nd Street Stations, were located in what was known as Seniority District No. 9 and temporary vacancies and/or positions pending assignment

so-called "outsiders" were used as listed on the seven page attachment to your letter.

As we have previously explained to you, we did not use "outsiders", but instead in each instance clerks were used who properly established seniority under our agreement.

There is no valid basis for these claims and they are declined.

Yours truly,

Director of Personnel

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The employees subsequently made an ex-parte submission of dispute to the Third Division, National Railroad Adjustment Board, which tribunal requested Carrier to file its submission on or before April 29, 1968. At no time have the employees requested or held conference with the Carrier in an attempt to settle this particular dispute as required by the Railway Labor Act, the entire dispute having been handled entirely by correspondence.

OPINION OF BOARD: Carrier asserts, and this Board agrees, that the instant claim is improperly before us due to the fact that a conference was not held on the property. Section 2, Second of the **Railway Labor Act** requires such a conference, unless there is an Agreement to the contrary. There being no evidence of such an exception, this claim must be dismissed without considering the merits. (Awards 16567, 16614, 16848, 16870, and 16964, among many others.)

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.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 26th day of September 1969.