

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21339
Docket Number CL-21166

Frederick R. **Blackwell**, Referee

(Brotherhood of Railway, Airline and **Steamship**
(**Clerks, Freight Handlers, Express and Station**
(**Employees**

PARTIES TO DISPUTE: (

(Robert W. **Blanchette**, Richard C. **Bond** and
(**John H. McArthur**, Trustees of the Property of
(**Penn Central Transportation Company**, Debtor

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brotherhood
(**GL-7785**) that:

(a) Management violated the clerical rules **agreement** effective February 1, 1968, particularly 2-A-1, k-A-1, Scope, plus others when they assigned work belonging to the Group 2 employees. The work of hauling crews and **personnel** was and has been their work and is a violation of the Agreement. The Terminal Service which started November 13, 1969 is doing work assigned to the Group 2 personnel, assigned to the Avon area at Indianapolis, Indiana..

(b) **Mr. R. L. McGuire** is assigned to 1st trick, is available for second trick every day in the week. **Mr. LeRoy** Somerville assigned to 2nd trick is available for 3rd trick. **Mr. Harry Curtis** is assigned to 3rd trick and is available for first trick. All three of these men are qualified since they are doing the same work the Terminal Service started doing.

(c) **Mr. R. L. McGuire**, **Mr. LeRoy** Somerville, and **Mr. Harry Curtis** should be compensated a day each for each day of violation. The violation started November 13, 1969, making November 13, 14, 15, 16, 17, 18, 19, 20, 21, 23, 24, 25, 26, 28, 29, 30 in violation and this is still going on.

OPINION OF BOARD: This is a Scope claim in which the Organization alleges that the Carrier violated the parties' Agreement when effective November 13, 1969, the Carrier contracted with an outside company for the performance of work theretofore performed by employees covered by the Scope of the Agreement. The work involved the transport of train and engine personnel between various points in the Indiana Terminal, namely, between Avon Yard, Indianapolis Union Station, and Bee Line City Parking area.

The **Organization's Submission** refers to the disputed work as encompassing the "handling of **company** mails, **waybills**, etc. (messenger **service**) within the **limits** of the Indianapolis terminal;" however, the Carrier asserts that this work is **not mentioned in** the statement of the claim and that it therefore **should not** be considered as an issue in the instant dispute. The record **supports** the Carrier's contention **in** this regard and the **work** described in the foregoing quotes is hereby **dismissed** as not being properly before the **Board**. The Carrier further asserts that the instant **Scope rule** is **general** in nature and that the **Organization** has not submitted the proof necessary to meet the **evidenciary** requirements of the doctrine of **exclusivity** which a Carrier **may interpose** as a defense under such a general rule. This point is **also supported** by the record and numerous prior authorities. See for **example**, recent Award No. **19789** which involved these **same parties** and the **same Scope Rule**. Accordingly, the claim will be dismissed.

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 not violated.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD

By Order of Third Division

ATTEST:

A. W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 16th day of December 1976,

