

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21485
Docket Number CL-21493

Robert M. O'Brien, Referee

PARTIES TO DISPUTE:

(Protherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(**Express** and Station **Employees**
(
(Boston and Maine **Corporation**, Debtor

STATEMENT OF CLAIM: Claim of the System Committee of the Protherhood
(**GL-8099**) that:

1. Carrier violated the Agreement when it assigned Messenger's duties at East Deerfield, Mass., to Al's Cab of Greenfield, Mass. and Howard Johnson Motor Lodge.

2. William **G.** Gardner, employee holding Messenger's Seniority be allowed one (1) day's pay, October 15, **1975** and everyday thereafter until same is corrected, due to work in question contracted to an outside taxicab company. Rate of pay **\$38.08** per day.

OPINION OF BOARD: The claimant in this case was an unassigned or spare **employee** who was called on an "as needed" basis to perform extra services or to fill day-to-day vacancies on a regular messenger/janitor position at Carrier's East Deerfield, Massachusetts Terminal.

The claim as initiated and progressed to this **Board** alleges a violation of Rule 1(a) - Scope because of Carrier's use of a private taxi **company** to transport train and/or engine service crews into, out of and around the East Deerfield terminal.

The record in this case reveals that throughout Carrier's **system**, train and engine service crews are transported by several different means including but not limited to privately owned taxi cabs as well as by clerical **employees** assigned to messenger positions. Therefore, the exclusive right asserted by petitioner in this case must arise from either the Rules Agreement **or** the custom, practice and tradition of **performance** on Carrier's system.

A review of the Agreement and the record indicates that the work here in dispute is not the exclusive right of petitioner. Accordingly, the claim will be denied. See Award **Nos. 21339, 19789, 19193, and 12219** of this Division.

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 denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Pauls
Executive Secretary

Dated at Chicago, **Illinois**, this **31st** day of March 1977.

