

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22150
Docket Number CL-22072

George S. Roukis, Referee

(Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station **Employes**
PARTIES TO DISPUTE: (
(Akron,- Canton and Youngstown
(Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-8413) that:

1. Carrier violated the Agreement between the parties on
November 27 and 28, 1976, when Trainmen were instructed to perform
work formerly assigned exclusively to clerical employees.

2. Carrier **shall** now pay Mr. C. R. Lutz an **additonal** day's
pay for each day of **the** claim.

OPINION OF BOARD: On **November** 22, 1976, Manager's Notice No. 92
was promulgated which revised certain instructions
and delineated train and engine service employees' responsibilities.
The Notice also contained the following paragraph:

"Beginning November 23, 1976, duties of Yard Con-
ductors will include the making of a straight list
of cars being **handled** into yard from transfers and
industries. All cars brought into yard are to be
shown on this **list.**"

Thereafter, when conductors complied **with the** instructions, a time
claim was filed for an additional day's pay under the Clerks' **Agreement**
on the basis that when the conductor was instructed to **make** a "straight
list" of cars in his **train, this was** work subject to the Clerks' ..
Agreement and its performance by conductors violated Rule **1(c)** which
states:

"Positions within the scope of **this** Agreement belong
to the employes **covered** thereby and nothing in this
Agreement shall be construed to permit the removal of
positions and/or work from the application of these

"rules subject to such modifications and exceptions hereinafter set **forth.**"

The Organization argues that the scope rule extant with this Carrier is a specific scope rule **reserving** work covered thereby exclusively to **employees** subject to the scope of the Clerks' Agreement. The Carrier, correlatively, counters that for the Organization to prevail it **must** demonstrate that the disputed work is performed **systemwide** exclusively, historically, or customarily by clerks.

As to the application of the scope rule, we think the Organization's arguments are more persuasive. **Numerous** times this **Board** has held this **rule** to be a specific, not general, scope rule and only a showing that work, **once** placed thereunder, has been **removed** in violation thereof is required. However, there is no **showing** that the work in dispute was ever performed by clerks, as the record discloses that, although required to list all cars handled in their trains into the yard prior to the issuance of Bulletin No. 92, **only** subsequent thereto were conductors required to list the cars in train order as well - the only apparent change resulting from Bulletin No. 92.

The Organization has **not** established in the first instance that this work had been placed under the scope of the agreement and thus could not be removed therefrom in violation of Rule **1(c)** **supra.**

We will deny this claim.

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

Award Number **22150**
Docket Number CL-22072

Page 3

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 **July 1978**.
