

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22534
Docket Number CL-22475

Kay McMurray, Referee

(Brotherhood of Railway, Airline and
(Steamship Clerks, Freight **Handlers**,
(**Express and Station Employees**
PARTIES TO DISPUTE: (
(Chicago, Milwaukee, St. Paul and Pacific
(Railroad **Company**

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brotherhood
(GL-8529) that:

1) Carrier violated the Clerks' **Rules Agree-t at Janes-**
ville, Wisconsin when it required an employe outside the scope and
application of the Agreement to perform clerical duties at the
Chevrolet Plant.

2) Carrier shall now be required to compensate employe
J. Frierdich a two (2) hour call at the time **and** one-half rate of
Position No. 51050 for September 15, 1976 and each subsequent workday
until the violation is corrected.

OPINION OF BOARD: **The** claimant, John Frierdich, at the time of
this claim, September 15, 1976, was working as a
Demurrage Clerk at **Janesville, Wisconsin**, with assigned hours from
6:00 a.m. to 3:00 p.m. At the end of his shift it is necessary to
check the tracks adjacent to the Chevrolet Plant. The Carrier
utilized the service of an on duty Yardmaster for this purpose.
The Organization contends that such work is reserved to the claimant's
position and that it is a violation of the Scope **Rule** to permit such
work by a Yardmaster.

The **employees** contend that checking yard tracks is exclusively
clerical work. They further contend that Yardmasters had not performed
such work prior to the present claim. In support of this position
four **statements were** submitted (including the claimant's and two
employees' from another railroad). All state that to their knowledge,
Yardmasters had not done such work prior to this claim at this location.

The Carrier presented evidence that the work had been done by different employes, including Yardmasters, in the past. A notarized statement by a Yardmaster working at **Janesville** reads in pertinent part:

"...it has always been the custom of the Yardmaster at this point in the furtherance of his duties to check yard tracks."

The record contains no challenge to the foregoing and is somewhat recognized in the **employes'** rebuttal by **an** admission that **Yardmasters** do check tracks.

It is the view of this Board that the Organization has not submitted evidence necessary to prove that the agreement was violated.

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 Employes involved in this dispute are respectively Carrier and **Employes** 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: *C. W. Paulos*
Executive Secretary

Dated at Chicago, Illinois, this **28th** day of September 1979.