

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22894  
Docket Number CL-23020

Martin F. Scheinman, Referee

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

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brotherhood (GL-8895)  
that:

1. Carrier violated the Agreement between the parties on April 14, 1978, when an employee, not covered by the clerical **agreement**, was used to perform work that is assigned to clerical employees.

2. Carrier shall now pay Mr. D. W. **Ellington** eight hours at punitive rate for this violation.

OPINION OF BOARD: Claimant was a **member** of the clerical extra list at Akron, Ohio, and as such is used to fill **stockman** positions at Carrier's Storehouse. On April 14, 1978, an employee of Carrier's Maintenance of Equipment **Department** drove a truck from the diesel house at Akron, Ohio to Brewster, Ohio to pick up **needed** material which was used at the diesel house. The Organization contends that the Clerks' Scope Rule was violated when an employee, outside of the Clerks' Agreement, was used to perform this truck driving duty to **secure** material.

Rule 1 - Scope reads in pertinent part:

"(c) Positions within the scope of this **Agreement** belong to the employees 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."

Petitioner argues that the transportation and delivery of company material and supplies is work that is assigned to clerical employees and therefore the use of an employee outside of the clerk's ranks **constitutes** a removal of such work from the Clerks' Roles Agreement. It argues that this can only be accomplished by negotiation and agreement between the parties signatory to the Clerks' **Rules** Agreement.

Carrier, on the other hand, contends that the duties of picking up and delivery of company **materials** is, and historically has been, performed by **employees** of several departments including, but not limited to, clerks assigned at storehouses.

The Scope **Rule** here involved was recently considered in our Award No. 22150. There we said:

"\* \* \* 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**.' (Underscore in the original)

In this case, from the evidence of record, it is apparent that the work of driving a truck to secure needed material has been a **shared** responsibility on this property. Carrier acknowledges that 'Extra Board Clerks performed this service only when they were protecting vacancies on Storehouse Helper and **Stockman** positions.' It is equally apparent that **employees** of other **departments, including** the Maintenance of Equipment Department, as in this instance, also drive trucks to pick up from a supply point material and equipment that is needed at the time by the particular using department. They transport such needed material and equipment to the **location** where it is then used. A continuance of this type of **performance** **by** the using **departments** in the course of **on-going repairs** does not constitute removal of work from **the** application of the Clerks' **Rules** Agreement. The terms "positions and/or **work**" as used in **Rule 1(c)** cannot mean **more** after December 1, 1973 than was included in the positions or performed by the positions prior to the inauguration of the specific Scope **Rule**. See also Award No. 20313 of this Division.

The claim in **this** instance must be and is, **therefore, denied**.

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. Paulsen*  
Executive Secretary

Dated at Chicago, Illinois, **this** 18th day of June 1980.