NATIONAL RAILROAD ADJUSTMENT BOARD

Award Number 26245

THIRD DIVISION Docket Number CL-25833

Robert W. McAllister, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employes

(Chicago, Milwaukee, St. Paul and Pacific Railroad Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood (GL-9915) that:

1) Carrier violated the Clerks' Rules Agreement at Winnebago, Minnesota when it abolished Extra Gang Timekeeper Position No. 29050 on December 3, 1981 and utilized Assistant Extra Gang Foreman C. A. Ziemet to perform the duties of Extra Gang Timekeeper Position No. 29050 from December 4, 1981 to and including December 23, 1981.

2) Carrier shall now be required to compensate Employe K. A. Erickson an additional eight (8) hours at the pro rata rate of Extra Gang Timekeeper Position No. 29050 for each of the dates, December 4, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 21, 22 and 23, 1981."

OPINION OF BOARD: Prior to December 4, 1981, the Claimant occupied Extra Gang Timekeeper Position No. 29050. Effective December 3, 1981, his position was abolished and, thereafter, until December 23, 1981, duties of keeping time for the Extra Gang were allegedly performed by an employe working outside the scope of the Clerk's Agreement, an Assistant Extra Gang Foreman. The Organization contends that keeping time for the Extra Gang, following the abolishment of the Timekeeper Position, constituted removal of a position from under the scope of its Agreement in violation of Rule l(g), which reads as follows:

> "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 from the application of these rules, except in the manner provided in Rule 57."

The Carrier essentially contends that work connected with recording time for extra gang employes is not, by the terms of the Agreement, work exclusively reserved to Clerks on a systemwide basis.

Both parties have submitted Awards involving this particular Agreement which they argue support their contentions. Also, the Brotherhood of Maintenance of Way Employes was invited to participate as a Third Party in this matter, but declined to do so.

Rule l(f) has been the subject of a considerable number of Awards of this Division. Some of these are 12360, 12841, 14636, 18632, 19304, 19255 and **23320.** These Awards hold that the use of the word "position" in the Rule is not synonymous with the word "work" and, thus, the Rule is a general Rule not reserving work exclusively to the Craft. Since the Rule is general in nature, the Organization is required to show an exclusive systemwide **practice** of the performance of the disputed work in order to prevail in an allegation that work was performed by outsiders.

In the instant case, this has not been done. The record contains no evidence as to the type and amount of work involved or the time the Assistant Foreman devoted to its completion. Also, we have no showing as to what the practice is. What we do have in this record is an unsupported statement that following the abolishment of the position, the work was completed by the Assistant Foreman. This is not adequate to establish **a violation** of Rule l(f).

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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: Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 27th day of February 1987.