

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26714  
Docket Number CL-26705

Edward L. Suntrup, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks,  
( Freight Handlers, Express and Station Employees  
(  
(The Belt Railway Company of Chicago

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood  
(GL-10038) that:

1. Carrier violated the effective Clerks' Agreement when during a period from August 13 through August 17, 1984, it failed to provide vacation relief for the General Bookkeeper position but rather required and/or permitted an employee not covered by the Agreement to perform necessary work of that position;

2. Carrier shall now compensate Mr. Edward Pollard for the difference between the rate of his position (Timekeeper and Distribution Clerk) and that of the General Bookkeeper for each of the above dates; and further, shall compensate the senior available furloughed employee eight (8) hours' pay at the straight time rate of a Timekeeper and Distribution Clerk position for each of the above dates."

OPINION OF BOARD On October 10, 1984 a Claim was filed on the grounds that the Manager of Disbursement and General Accounting performed the work of the General Bookkeeper, a covered position, from August 13, through 17, 1984. The General Bookkeeper was on vacation on those dates. The Claim stated that the "...work (in question) was formerly the work of the Assistant Bookkeeper and after its abolishment became an integral duty of the General Bookkeeper." The Claimant in this case who had held the position of Assistant Bookkeeper, which position had been abolished, stated in the Claim that he was "...available to fill this position on a move-up had he been requested to do so."

The Claim was denied by the Carrier for two reasons. First of all, it was the position of the Carrier that the work in question was "historically and traditionally...(a) function and responsibility of the Manager..." The work consisted of investigating and correcting a Journal Entry 31 error in the amount of over \$16,000.00. The error had been committed by the former Assistant Bookkeeper who was, as noted above, the same person filing this Claim. The second reason why the Carrier denied the Claim was because the Claimant had "...never performed the duties" related to the Claim nor, the Carrier argued, "...was (the Claimant) qualified to do so."

In Claims such as this it is incumbent upon the Organization, as moving party, to bear the burden of proof that the Agreement had been violated (Second Division Awards 5526, 6054; Third Division Award 15670). A search of the record fails to persuade the Board that such burden has been met here. There is no evidence of past practice that the actual work performed fell under the generally accepted application of the Agreement's Scope Rule on this property. Absent evidentiary support that the Agreement had been violated, the Board need not address the additional issue raised by the Carrier relative to the Claimant's competence to perform the work at bar in the first place.

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:

  
Nancy J. Devel - Executive Secretary

Dated at Chicago, Illinois this 23rd day of November 1987.