

The Third Division consisted of the regular members and in addition Referee Marty E. Zusman when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International Union
(The Baltimore and Ohio Railroad Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood (GL-10223) that:

(1) Carrier violated, and continues to violate, the provisions of the Agreement in effect between the parties, when, beginning on date of January 16, 1985, and continuing, it causes and permits employes not covered thereby to perform work of the physical unloading of rail cars containing newly assembled locomotive wheels and axles at the Diesel Shop in Cumberland, Maryland, and

(2) Carrier shall now, as a result, be required to compensate each employe named, as indicated, eight (8) hours' pay at the pro rata rate for each date listed and continuing as follows:

O. W. Myers, Foreman, South Cumberland, Md. Storeroom for dates of: January 16, 21, 22, 23, 25, 30, 31; February 6, 8, 11, 12, 15, 18, 20, 22, 26; March 1, 13, 29; April 1, 3, 5, 9, 10, 15, 16, 18, 23, 26, 29, 30; June 25, 26, 27; July 2, 19, 24, 25, 26, 29, 31; August 2, 6, 1985, and each subsequent work date, Monday through Friday of each week on which such violation is permitted, such dates being a matter of record, until this dispute is resolved and the work listed herein is properly assigned to the Clerical craft.

J. A. Turano, Storehelper, Cumberland, Maryland Storeroom for dates of January 16, 21, 22, 23, 25, 30, 31; February 6, 8, 11, 12, 15, 18, 20, 22, 26; March 1, 13, 29; April 1, 3, 5, 9, 10, 15, 16, 18, 23, 26, 29, 30; June 25, 26, 27; July 2, 19, 24, 25, 26, 29, 31; August 2, 6, 1985, and each subsequent work date, Monday through Friday of each week on which such violation is permitted, such dates being a matter of record, until this dispute is resolved and the work listed herein is properly assigned to the Clerical Craft."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

There is no dispute that on May 14, 1984, the Cumberland Wheel Shop was eliminated. Prior thereto, wheels and axles were separately shipped by manufacturers directly to the Storeroom where Clerical employees unloaded and handled the parts. When the parts were needed they were moved around six hundred yards to the diesel shop where they were unloaded by Shop Craft employees for assembly.

After May 14, 1984, the wheels and axles came to the Stores Department at Cumberland fully assembled. Employees of the Clerical craft were used as groundmen in the unloading of these parts. The instant Claim was initiated by the Organization alleging that the Carrier had from May 11, 1984, until January 16, 1985, assigned clerical employees to unload the assembled diesel wheels. The Organization alleges Carrier violation of the Scope of the Agreement when it reassigned the unloading to the Machinist craft.

The Carrier denies any change in operations, reassignment of work, or violation of the Agreement. The Carrier argues that on January 16, 1985, the wheels were no longer sent to the Cumberland Stores Department, but directly to the Diesel Shop for unloading. Unloading in the Diesel Shop had always been done by Shop personnel. Exceptions to such practice were protested by the Shop Craft employees. As Shop Craft employees had always acted as groundmen for unloading done in the Diesel Shop, the action herein complained of was not violative of the Agreement.

As Third Party in Interest, the Machinists filed a Submission. The Machinists argued that the disputed work was historically and exclusively theirs to perform. In support they provided signed statements from their Craft attesting to the fact that they have for numerous years loaded and unloaded wheels at Cumberland's Diesel Shop.

After a thorough study of the record and Awards submitted by the parties, we fail to find sufficient probative evidence to support the asserted violation. A careful review of SBA No. 192 Award No. 91 and Third Division Award 19320 does not find them on point, particularly because the contested work is not incident to the Machinists, but exclusively theirs. The record herein supports that unloading of wheels at the Diesel Shop is Machinist's work by custom, practice and assignment.

The Board understands the Clerks concerns for the loss of work performed for over eight months. Instead of having material sent to the Stores Department for movement 600 yards to the Diesel Shop, the materials are directly sent to the Diesel Shop. The delivery of the wheels directly to the Diesel Shop wherein wheels have always been removed by Machinists is not violating any provision of the Agreement. The unloading of wheels was not reassigned; the location of delivery was changed. Unloading of wheels had been done by both crafts, but at the Diesel Shop it was Machinist's work. This Board must therefore deny the Claim (Public Law Board No. 2668, Award No. 65, Case No. 40).

Form 1
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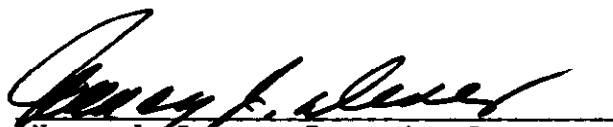
Award No. 27813
Docket No. CL-28066
89-3-87-3-870

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 29th day of March 1989.