

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

(Transportation Communications International Union  
PARTIES TO DISPUTE: (  
(Kansas City Terminal Railway Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood  
(GL-10194) that:

1. The Carrier violated Rules 1, 2, 37 and Appendix E among others of the schedule Agreement when it directed work, computer programming, which is covered by individuals outside the coverage of the Agreement.

2. The Carrier shall now be required to compensate J. M. Lyle for eight (8) hours pay at his overtime rate of pay for each day of Saturday May 24, 1986 and Saturday June 14, 1986, which shall be in addition to any other amounts he may have received for these dates."

FINDINGS:

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

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employees 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.

On May 24, 1986, and June 14, 1986, Carrier directed an Assistant Auditor not covered by the Agreement to perform programming work. Claimant was available to perform these duties and the Organization contends that he should have been allowed to perform them.

This Board has considered a similar case involving the same parties and an outside contractor, Third Division Award 28301. In that instance, the Board concluded that Claimant did not have the exclusive right to perform all programming activities. We see no basis to conclude otherwise in this instance.

Form 1  
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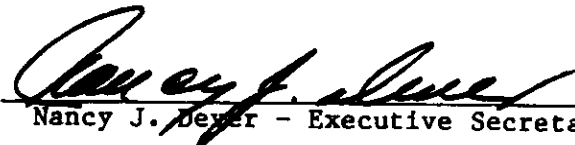
Award No. 28302  
Docket No. CL 73  
90-3-87-3-540

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Dwyer - Executive Secretary

Dated at Chicago, Illinois, this 29th day of March 1990.