

The Third Division consisted of the regular members and in addition Referee Irwin M. Lieberman when award was rendered.

(Transportation Communications International Union  
PARTIES TO DISPUTE: (  
(Green Bay and Western Railway Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood  
(GL-10410) that:

1. Carrier violated the provisions of the current Agreement, particularly Rule 1 when on March 1, 1988, they abolished Position #66, Freight Claim Agent and effective the same date, Mr. W. Magaurn was appointed Manager of the Accounting Department and upon assuming said position he additionally assumed the duties of the abolished Freight Claim Agent position and continues to perform such duties of the abolished position, and

2. Carrier shall now be required to divide the sum of \$2,425.19 per month, which represents the wages of the abolished position, among All of the Employees who hold a position covered by the TCU Agreement, beginning with the date of March 1, 1988 and continuing until the violation of which we complain ceases."

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.

Effective March 5, 1988, Carrier abolished the position of Freight Claim Agent. Simultaneously, the former incumbent of that position was named as Manager of Accounting. The Claim herein is based on the assertion that some of the Freight Claim Agent's work was retained by him when he became Manager of Accounting, a non-covered position.

The Organization relies on the Scope Rule in this matter, which provides that work performed by clerical positions cannot be removed from or assigned to non-covered employees except by prior agreement.

Without consideration of a procedural question raised by Carrier, there are a number of significant and fatal flaws in this dispute. There is no evidence of any employee being deprived of earnings or aggrieved in any fashion in this matter. Even more importantly, there is no identification in the record of this claim of what work was being performed by non-clerical employees. Particularly in alleged Scope Rule violations, it is a sine qua non that the work in dispute must be identified; mere assertions are inadequate in the perfection of the Claim.

For the reasons indicated, this Claim must be denied.

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 28th day of February 1992.