

The Third Division consisted of the regular members and in addition Referee Eckehard Muessig when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International Union  
(  
(The Atchison, Topeka and Santa Fe Railway Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood (GL-10469) that:

CLAIM NO. 1

(a) Carrier violated the current Clerks' Agreement at Barstow, California, on June 3, 4, 7, 8, and 20, 1989, when it required and/or permitted employees that are not covered by the rules of the Agreement to perform routine schedule clerical work, and

(b) L. R. Sanchez and/or the senior available and qualified employee shall now be compensated for one call payment (three pro rate hours), or eight (8) hours for the senior OIFR employee, at the rate of Janitor Position No. 6017 or the rate of their regular assignment, for the days herein claimed, in addition to any other compensation Claimant may have received.

CLAIM NO. 2

(a) Carrier violated the provisions of the current Clerks' Agreement at Barstow, California, commencing on or about July 2, 1989, when it required and/or permitted employees that are not covered by the rules of the Agreement to perform routine schedule clerical work, and

(b) L. R. Sanchez and/or the senior available and qualified employee shall now be compensated for one call payment (three pro rate hours), or eight (8) hours for the senior OIFR employee, at the rate of Janitor Position No. 6017 or the rate of their regular assignment, commencing July 2, 1989, in addition to any other compensation Claimant may have received and continuing until the violation has been corrected.

(c) Proper payment for the senior qualified and available employee to be determined by a joint check of Carrier's records and payroll.

In accordance with Circular No. 1 of October 10, 1934, as amended, which was issued by the Board, the claims presented have been combined into one submission, as these two separate claims deal with the same dispute involving Carrier requiring and/or permitting employees not covered by the Agreement to perform routine schedule clerical work, denoted janitorial work."

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.

As Third Party in Interest, the International Brotherhood of Firemen and Oilers was advised of the pendency of this dispute, but chose not to file a Submission with the Board.

The Claims are for janitorial work performed on five separate occasions in June 1989, at the Carrier's Barstow, California facility. The Organization claims that the work at issue has been normally, customarily and exclusively performed by the occupant(s) of Position No. 6017. (The same position at issue was before the Board in Third Division Award 29132).

The Carrier essentially asserts that the janitorial work claimed is performed by others as well as the Clerks at the locations involved. From our review of the record, we agree with the Carrier that the Organization has not sustained its burden of proof. Therefore, the Claims are denied.

A W A R D

Claims 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.