

The Third Division consisted of the regular members and in addition Referee Joseph A. Sickles when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International Union
(CSX Transportation, Inc.
(former Louisville & Nashville Railroad Company)

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood (CL-10569) that:

1. Carrier violated the Agreement when it failed and/or refused to call the Senior Available Employee, or an Extra Clerk, to perform extra clerical work done by a Supervisor.
2. Carrier shall now compensate the Senior Available Employee, extra in preference, at the Intermodal Clerks' rate of \$103.36 for violation of June 15, 1989."

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.

The claim asserted that a Ramp Supervisor performed certain data processing work (preparing J-10 forms) for trailer/containers in violation of the Scope Rule. The Carrier asserted that the work performed by the Supervisor has been done by Supervisors on a regular basis.

It may not be necessary to prove traditional "exclusivity" in order to prevail under a "position and work" Scope Rule, but here, the Organization repeatedly argued "exclusivity" on the property, and the Carrier cited instances where Supervisors had signed the J-10 forms. The Organization states that it had no knowledge of said prior activity by Management.

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Award No. 29441
Docket No. CL-29837
92-3-91-3-216

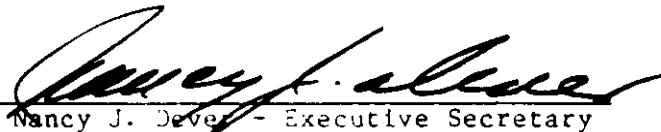
Without regard for the Carrier's assertion that the Claim fails to identify a Claimant, that it is excessive and that it must be tested under a General Scope Rule, even under a "position and work" Scope Rule, the Organization is required to show that work has been removed. Based upon the status of the record before us, we can not find that such a showing was made.

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 21st day of October 1992.