

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 29522
Docket No. CL-29563
93-3-90-3-515

The Third Division consisted of the regular members and in addition Referee John B. LaRocco when award was rendered.

PARTIES TO DISPUTE: (Transportation-Communications
(International Union
(
(Soo Line Railroad Company

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood (GL-10508) that:

1. Carrier violated the TCU Rules Agreement, in effect on the Soo Line Railroad, on November 12, 13, 19, 20, 24, 26, 27; December 3, and 4, 1988, when it caused, required, and/or permitted an employee not of our Craft and Class to perform work which prior to the date of claim had been performed by an employee covered by the effective Agreement between TCU and the Soo Line Railroad Company.
2. Carrier shall now be required to compensate employee Phillip J. Lasky, Sectional Stockman, Position No. 84178, located at Bensenville, IL, for eight (8) hours pro rata rate for each day claimed, and that the work being performed be restored to Claimant and/or 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 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 days he works, Claimant a Sectional Stockman spends a few minutes a day reading two fuel storage tank gauges and recording the gauge readings on paper. On each of the claim dates, Claimant was not at work because he was on his rest days and the Carrier did not fill his position. On these days, the Diesel House Foreman read the fuel tank gauges and recorded the information on paper. On Monday, the Foreman furnished Claimant with the information so Claimant could file diesel fuel usage reports for Saturday and Sunday (as he did for every other day).

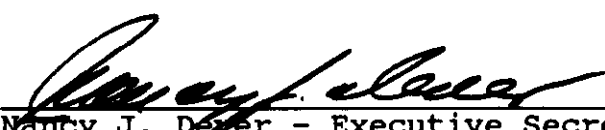
The Organization argues that by assigning the work of reading the fuel storage tank gauges to the Diesel House Foreman without the Organization's permission, the Carrier removed work reserved exclusively to the clerical craft pursuant to Rule 1(d).

The record is vague concerning who, if anyone, checked the fuel storage tanks and recorded the fuel levels on Claimant's rest days prior to November 12, 1988. Regardless of whether the work was being performed on Claimant's rest days before the claim dates herein, the work in dispute was de minimus so long as Claimant continued to compose the fuel usage reports as well as to read and record fuel gauge information on his regular work days. Indeed, the Organization has failed to come forward with any evidence concerning the quantum of work in dispute. This Board is thus left with the Carrier's unrefuted assertion that the Diesel House Foreman spent less than a few seconds reading the fuel gauges on Claimant's rest days.

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 3rd day of February 1993.