

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

Award No. 29661  
Docket No. CL-29850  
93-3-91-3-242

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

(Transportation Communications International  
(Union  
PARTIES TO DISPUTE: (  
(Chicago & North Western Transportation Co.

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood (GL-10580) that:

1. Carrier violated the effective agreement, in particular Rule 1 thereof, when on July 30, 31, August 3, 4, and 5, 1987, it contracted with outsiders for the performance of clerical work in connection with piggyback shipments at Council Bluffs, Iowa, which work is reserved to employes covered by said agreement;
2. Carrier shall now compensate the Clerk M. J. Carroll eight (8) hours' pay at the rate of Yard Clerk for each of the above referred to 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 employe or employes involved in this dispute are respectively carrier and employe 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.

This dispute concerns a claim by the Organization that the Carrier violated its contractual obligations when it "...contracted with outsiders for the performance of clerical work in connection with piggyback shipments...."

The Carrier has asserted that it merely continued a practice which has been in existence "...for at least the past 10 years" in which a clerical employee prepares a J-1 Report for each trailer, which is given to the truck driver who then delivers the trailer to the customer. On occasion, a clerk contacts the customer concerning delivery.

The Organization continued to assert a violation of its Scope Rule, but we are unable to find evidence of record to support the claim concerning the incidents in question. This Board has repeatedly insisted that the Claimants establish the basis for a claim by the preponderance of the necessary evidence. See, for example, Third Division Award 29398 as well as Third Division Awards 28658, 27809 and 27710, relied upon by Carrier concerning the burden of proof.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Dever - Secretary to the Board

Dated at Chicago, Illinois, this 7th day of June, 1993.