

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 29695
Docket No. CL-29725
93-3-91-3-74

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

PARTIES TO DISPUTE: (Transportation Communications International Union
(
(CSX Transportation, Inc. (former Seaboard
(Coastline Railroad Company)

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood (GL-10540) that:

1. Carrier violated the Agreement on November 19, 1988, when it allowed Supervisory personnel at the Hamlet Motive Power Shop to perform work assigned to the 11 p.m. - 7 a.m. Diesel Clerk after having abolished the aforementioned Diesel Clerk position.
2. Further, that the Carrier has violated the Agreement on each of the above listed dates (List attached) by allowing Supervisory personnel to continue to perform these duties.
3. As a consequence thereof, the Carrier shall:
 - a. Compensate the above-named Claimants the appropriate compensation.
 - b. Reestablish the position of the third-shift Diesel Clerk as a daily position.
 - c. Exclusively return this work to the Diesel Clerk, thus instructing Supervisory personnel to immediately cease performing the disputed 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 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.

Procedural arguments raised by the Carrier are found wanting; accordingly, this matter will be addressed on its merits.

The facts in this record are not disputed. On November 18, 1988, the third shift Diesel Clerk position at Hamlet, North Carolina, was abolished. Following the abolishment, some of the work of the abolished position was assigned to Diesel Clerks on other shifts, some was eliminated and some was performed by non-clerical employees. In Third Division Award 29619, the Board concluded that the second sentence of Paragraph (d) of the amended May 16, 1981 Scope Rule, reading:

"It is understood that positions may be abolished if, in the Carrier's opinion, they are not needed, provided that any work remaining to be performed is reassigned to other positions covered by the Scope Rule."

required that work of abolished positions be reassigned to other positions covered by the Scope Rule. Carrier admits that this was not done in this case. Thus, the Agreement was violated. The claim will be sustained in part.

Item 3 of the Statement of Claim seeks the re-establishment of the abolished Clerical position and a declaratory order returning the work of the abolished position with instructions that Supervisory personnel cease performing it. This relief is beyond the authority of the Board.

With respect to Item 2 of the Statement of Claim, each Claimant shall be allowed a two hour overtime call for each of the listed dates.

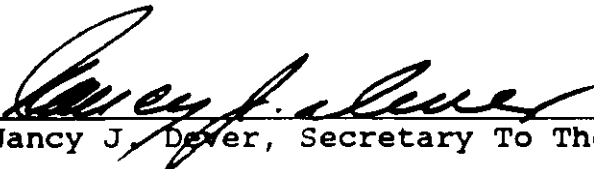
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A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: 
Nancy J. Dever, Secretary To The Board

Dated at Chicago, Illinois, this 16th day of July 1993.