

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award No. 29706
Docket No. CL-29803
93-3-91-3-186

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
(
(Chicago and North Western Transportation
(Company

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood
(GL-10559) that:

1. Carrier violated the effective agreement, in particular Rule 1 thereof, when on various dates it required and/or permitted non-covered employes to perform yard checking for the preparation of switch lists at Council Bluffs, Iowa, work which is reserved to employes covered by said agreement;
2. Carrier shall now compensate the following Claimants eight (8) hours' pay at the rate of Yard Clerk for the dates set forth below:

Mr. M. J. Carroll: July 1, 2, 3, 6, 7, 8,
10, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24,
27, 28, and 29, 1987.

Mr. W. J. Leggio: July 5, 11, 12, 18, 19,
25 and 26, 1987."

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 were given due notice of hearing thereon.

This Claim was filed on August 17, 1987. At that time the Organization argued that its "Position or Work" Scope was violated when Conductors were used for "checking and writing up switch lists of their trains." The operation involved in the Claim has been described by Carrier as:

"This assignment is a through freight train that operates between Council Bluffs and Fremont in turnaround service. The conductor is furnished with a printed wheel report of cars in his train prior to his departure from Council Bluffs or Fremont. The conductor records any pick ups and/or set outs made enroute on the wheel report. When he arrives at his final terminal he turns in his wheel report to a yard clerk, who in turn enters the information into the computer. Once the information is entered into the computer system, a printout is generated, which is then used for switching purposes."

This description of the work involved in this Claim, which is not adequately refuted by the Organization, does not demonstrate that a violation of the Scope Rule occurred. In order to demonstrate that a violation of a "Position or Work" Scope Rule occurred, it is first necessary to show, with convincing evidence, that the specific work being performed by strangers to the Agreement had in fact been performed by employees subject to the Agreement and has now been removed. This showing is missing in this case.

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 16th day of July 1993.