

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 29868
Docket No. CL-30047
93-3-91-3-479

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

(Transportation Communications International
Union)
PARTIES TO DISPUTE: (
(Chicago SouthShore & South Bend Railroad

STATEMENT OF CLAIM: "Claim of the System Committee of the
Brotherhood (GL-10622) that:

1. Carrier violated the effective agreement when on July 7 and 8, 1990, it required employes not covered by the scope of said agreement to perform work reserved to employes covered thereby;
2. Carrier shall now compensate Mr. Wayne Gibson eight (8) hours' pay at the time and one-half rate for July 7, 1990, and shall compensate Mr. Sam Cushway eight (8) hours' pay at the time and one-half rate for July 8, 1990."

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.

As Third Party in Interest, the United Transportation Union was advised of the pendency of this dispute and filed a Submission with the Board.

On two dates, when a clerical position was vacant (awaiting assignment by bulletin) Trainmen listed cars and then turned the list over to a Clerk for processing. The Organization contends that this activity violated its Scope Rule, which it contends reserves work referred to, or coming within the scope of the Agreement to employees assigned under the Agreement. Rule 1 reads:

"RULE 1

SCOPE AND WORK OF EMPLOYEES AFFECTED

- (a) These rules shall govern the hours of service and working conditions of all employees engaged in the work of the craft or class of clerical, office, station, and storehouse employee as such class or craft is or may be, defined by the National Mediation Board. Positions or work referred to in, or coming within the scope of, this agreement belong to employees covered thereby and no work or positions shall be removed from the application of these rules except by agreement between the parties hereto, nor shall any officer or employee not covered by this agreement be permitted to perform any clerical, office, station or storehouse work which is not incident to his regular duties except by agreement between the parties signatory hereto.
- (b) Any function performed by work now or heretofore assigned to employees subject to this agreement shall continue to be work subject to this agreement irrespective of any change in the means by which such function is performed."

The Organization has established that the work performed by train crews on July 7 and 8, 1990, had previously been performed by the occupant of the vacant position awaiting assignment by bulletin. As such this work was included within its Scope Rule. When it was performed by train crew members, strangers to the Agreement, the Scope Rule was violated. The claim has merit. It will be sustained.

A W A R D

Claim sustained.

Form 1
Page 3

Award No. 29868
Docket No. CL-30047
93-3-91-3-479

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: *Catherine Loughrin*
Catherine Loughrin - Interim Secretary to the Board

Dated at Chicago, Illinois, this 26th day of October 1993.