

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 30106
Docket No. CL-30422
94-3-92-3-431

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

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

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood (GL-10818) that:

1. Carrier violated the Agreement between the parties when on September 4, 1989, it advised Mr. E. Cary that his position would be blanked on Labor Day and that he should not report for duty. Carrier then performed Claimant's duties by hiring Veterans' Cab Company to transport crews from the Milwaukee depot to Meskego Yard.
2. Carrier shall now be required to pay Claimant eight (8) hours pay at the time and one-half rate of the PFI (Perishable Fruit Inspector) position for September 4, 1989."

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.

The Organization charged that the Carrier violated the Scope Rule when it allegedly utilized an outside contractor to transport crews between the Milwaukee Depot and the Muskego Yard on Labor Day, 1989 (September 4). On Labor Day, the Carrier annulled all clerical craft under the positions and work Scope Rule.

This Board must deny the Claim for lack of proof. While the record contains some evidence that the Carrier utilized a taxi cab to transport crews on the holiday either to or from the Milwaukee Depot, the record is void of any evidence that the cab company hauled a crew during Claimant's assigned hours. Absent evidence to prove this salient fact underlying the Claim, the Board need not address whether or not use of the taxi cab company to transport crews on a holiday when all clerical positions were annulled was a violation of the Scope Rule.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

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

Dated at Chicago, Illinois, this 4th day of April 1994.