

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 30238
Docket No. CL-29879
94-3-91-3-259

The Third Division consisted of the regular members and in addition Referee James E. Mason when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International Union)
(CSX Transportation, Inc. (former Louisville and Nashville Railroad Company))

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood (GL-10584) that:

1. Carrier is in violation of the Clerical Agreement at Corbin, Kentucky by contracting outside consultant to pay lodging bills, known as Corporate Lodging Consultant, Wichita, Kansas, effective September 1, 1989, previously performed by the clerical craft.
2. Return work to clerical craft.
3. As a result of the above, Carrier shall now compensate the Senior Available Employee, extra in preference, eight (8) hours' pay at the pro-rata rate of Position 271, \$110.24 a day, beginning September 1, 1989, and a continuous claim thereafter, until claim is resolved by General Chairman and Labor Relations."

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 is one more in an increasing line of cases involving alleged violations of the parties' "position and work" Scope Rule. In presenting this case to the Board, the parties submitted several prior Awards each of which, they say, supports their respective arguments in this case. We carefully examined each of the cited precedents and do not find any of them to be of assistance in our determination of this particular case.

In this case there is no argument relative to the application of the former "general" versus the current "position and work" Scope Rule as existed in and was determinative in Third Division Awards 28269, 29612 and 29619.

In this case there was no abolishment of any clerical positions with resultant assignment of work to others outside of the Scope as there was in Third Division Awards 28269 and 29619.

The applicable Agreement provision here under review reads as follows:

"RULE 1 - SCOPE RULE

- "(b) Positions or work covered under this Rule 1 shall not be removed from such coverage except by agreement between the General Chairman and the Director of Labor Relations. 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."

What we have in this case is a situation in which, prior to September 1, 1989, the Carrier negotiated contracts with individual motel operators to provide sleeping accommodations for Carrier's employees who were entitled to receive such services. The individual motel operators would submit to the Carrier on a monthly basis a statement to cover the costs of providing such services. The billing statement was received, reviewed and approved by a Carrier Supervisor. The billing statement was then given to an Agreement-covered Data Entry Clerk who input the information into Carrier's on-line computer system to the System Accounts Payable Department. The Accounts Payable Department then issued and forwarded checks for payment of the services to the individual motel operators.

Effective September 1, 1989, Carrier entered into an agreement with Corporate Lodging Consultants, Inc., (CLC), to provide motel accommodations for the Carrier. In lieu of the individual Carrier/motel operator contracts, there existed a single Carrier/CLC contract covering all of the several, individual motel operator contracts. With this arrangement, the contract with the individual motels was between them and CLC. Under this plan, the individual motel operators submitted their billing statements to CLC. Upon receipt of the individual bills from the motels, CLC would combine the several billing statements into a single statement which was submitted to Carrier on a twice-monthly basis. Upon receipt of the statement from CLC, a Carrier Supervisor reviewed and approved the billing statement and turned it over to an Agreement-Covered Data Entry Clerk who arranged to input the information into Carrier's on-line computer system to the System Accounts Payable Department where payment checks were issued and forwarded to CLC for handling with the individual motel operators.

When the penalty claim which formed the genesis of this dispute was presented by the Organization, it was contended that Data Entry Clerks F. L. McEntire and R. W. Johnson "performed the billing for lodging for train and engine personnel." From the beginning, Carrier asserted, without contradiction, that the handling of the motel billing was performed as outlined supra and specifically named the Data Entry Clerk Carmeta Barton as the individual who performed the Agreement-covered work both before and after September 1, 1989. At no time during any subsequent handling of this case on the property did the Organization challenge this information or attempt to explain what billing was allegedly "performed" by the other named individuals.

There is no argument in this case relative to Carrier's right to use CLC to negotiate contracts on Carrier's behalf with individual motel operators. Such work is inherently a management right and has never been covered by the Clerk's Agreement. The single item of Agreement-covered work in this case consisted of Data Entry input of previously approved billing statements. In its presentation to the Board, the Organization contended, for the first time, that, in some unexplained manner, the Clerk at Corbin "verified" the motel bills. It failed, however, to explain or prove what verifying had been performed by the Clerk. In fact, Carrier's account of the bill handling procedure remained unchallenged during the entire on-property handling of this Claim.

It is the opinion of the Board on the basis of the information furnished in this case that there was no violation of the "position and work" Scope Rule in this instance. The "work" which had been properly performed by the Data Entry Clerk prior to September 1, 1989, continued to be performed by the same Data Entry Clerk subsequent to September 1, 1989. Nothing was removed from the Clerk's coverage and assigned to anyone else either within or outside of the Carrier. Therefore, this Claim is denied.

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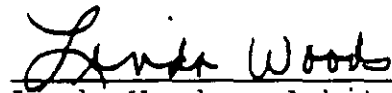
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AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:



Linda Woods - Arbitration Assistant

Dated at Chicago, Illinois, this 8th day of June 1994.