

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 30546
Docket No. CL-30592
94-3-92-3-383

The Third Division consisted of the regular members and in addition Referee Martin F. Scheinman when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications
(International Union
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(Chicago and North Western Transportation
(Company

STATEMENT OF CLAIM: "Claim of the Brotherhood that:

1. Carrier violated the effective agreement when on and after October 31, 1990, it required and/or permitted outsiders not covered by the scope thereof to perform work which is reserved to employees fully covered by said agreement;
2. Carrier shall now compensate M. L. Dotson, J. T. Raymond, S. T. Hook, E. A. Baron, L. LaSota, M. J. Wolf, M. J. Forster, M. E. Creamer, M. A. DeAngelo, J. K. Stock, B. E. Gregory, C. J. Jennings and W. F. Thorton eight (8) hours' pay each at the time and one-half rate for October 31, 1990, and for each and every day thereafter that a like violation occurs."

FINDINGS:

The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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 basic facts of this case are not in dispute. Claimants were employed as clerical workers at the Carrier's Global II facility at Proviso, Illinois. The Global II facility is an intermodal facility where freight is received in trailers and containers for shipment by rail and is forwarded from the railway

in trailers and containers for shipment by truck.

Prior to October 31, 1990, the Global II facility was a piggy-back yard which handled trailer traffic. Inbound truck drivers delivering trailers for shipment by the Carrier would provide trailer identification information to a clerical employee represented by the Organization, who would enter the information into the computer system for billing purposes. This data entry also generated a J1 inspection form for use by the inspector. This form was signed by the inspector and the trucker, who then received a copy of the form from the clerk. When drivers arrived at the yard to pick up trailers, they entered an office and provided trailer information to a clerical employee who entered it into a computer system. The system generated a receipt which was given to the driver by the clerical employee.

A new gate system was placed in operation at Global II on October 31, 1990. Inspectors were placed in inspector booths outside of the facility's gates. Clerical employees were placed in a dispatch tower inside the gates. A pneumatic tube system was installed for the transmittal of documents between the inspector booths and the dispatch tower. Printers linked to the Carrier's computer system were installed in the inspector booths. Telephones linked to the dispatch tower were installed so that truckers could communicate with the clerical employees in the dispatch tower.

Inbound truck drivers now pull up to the gate and use the telephone to contact clerical employees in the dispatch tower.

They give the clerk the same type of information they provided before the change at the facility. The information is entered into the same computer system by the clerical employee. The J1 inspection reports are printed on laser printers in the inspector booths. The inspector inspects the inbound container and signs the form, as had been done in the past. A copy of the form is given to the driver by the inspector. The remaining copies are sent by pneumatic tube to a clerk for distribution.

For outbound containers, the driver enters the yard, picks up a container and drives to the outbound gate. The trucker then contacts a clerical employee by phone and provides the relevant information. The clerk enters the information into the computer and prepares the relevant paperwork. The paperwork is printed on a laser printer at the outbound gate so that it can be picked up by the driver.

Claimants filed a claim objecting to the removal of work from their craft and class in violation of the Agreement. Carrier denied the claim. Thereafter, the claim was handled in the usual

manner. It is now before this Board for adjudication.

The Organization maintains that the Carrier has violated the parties' Agreement by requiring and/or permitting outsiders to perform work which had previously been performed by clerical employees subject to the Agreement. It relies on Scope Rule I (a) which reads in part as follows:

"Positions coming within the scope of this Agreement belong to the employees covered thereby and nothing in this agreement shall be construed to permit the removal of positions or work from the application of these rules except in the manner provided in the concluding rule."

The Organization argues that this rule prohibits the assignment of work which had been performed by the clerical employees it represents, to anyone other than those clerical employees. It cites numerous Awards in support of that proposition.

The Organization maintains that in the past only clerical employees removed forms from the printer and distributed them to the truckers. It argues that those job functions are now being performed by the inspectors. Therefore, it insists that Carrier has violated the Agreement's Scope Rule. Thus, the Organization asks that its claim be sustained in its entirety.

Carrier, on the other hand, argues that the Organization's claim is without merit. It insists that it has not violated the Agreement.

Carrier maintains that there has been no change in, or elimination of any duties performed by clerical employees as a result of the changes instituted at its facility. It claims that prior to October 30, 1990, clerical employees at the facility performed duties involving the receipt of information from drivers, the entry of all relevant data into the computer system, and the generating of documents needed for the inspection and receipt of shipments. Carrier insists that the same job duties are still being performed by its clerical employees today. Therefore, it argues that no violation of the Agreement has occurred.

Carrier also maintains that prior to October 30, 1990, the paperwork generated by the clerks was physically handled by both drivers and inspectors. It acknowledges that there has been less need for clerks to handle paperwork since October 30, 1990. However, since the truckers and inspectors have always handled the forms generated by clerks, it insists that no violation of the Agreement has occurred.

Accordingly, and for the foregoing reasons, carrier asks that the claim be denied in its entirety.

After careful review of the entire record, we are convinced that the claim must be denied.

It is well-established that the burden of proof in a matter such as this is on the Organization. The evidence submitted by the Organization has not established that anyone other than clerical employees is performing work which has been reserved to those employees by the Scope rule of the Agreement.

There is no dispute that the precise procedure for the production of paperwork was changed when the facility was modified in October 1990. However, those changes have not resulted in a violation of the Agreement. Prior to October 30, 1990, clerical employees at the facility received information from drivers, entered information into the computer system and generated documents which were needed by the Carrier for the inspection and receipt of shipments. Those documents were then handled by the clerk, the trucker and the inspector.

Although there have been certain minor changes in the procedure, we find that the clerical employees perform the same job functions they performed prior to the October 30, 1990 changes at the facility. They still receive information from drivers, enter that information into the computer system and generate documents which are handled by the trucker, the inspector and the clerk.

Accordingly, and for the foregoing reasons, the claim is denied in its entirety.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

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NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 9th day of November 1994.