

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 31091
Docket No. CL-30971
95-3-92-3-820

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
(
(CSX Transportation, Inc. (former
(Chesapeake and Ohio Railway Company)

STATEMENT OF CLAIM:

"Claim of the System Committee of the Union (GL-10881) that:

- (a) The Carrier violated Scope Rule 1 and others of the General Clerks Agreement when R.P. Abbott, Position R155, rate of pay \$3,450.31 per month, assigned Monday through Friday, 7:00 am - 3:00 pm, was denied work issuing River Permits when this work was moved to Jacksonville, Florida, without any negotiations or agreements to move the work off the position of Assistant Chief Car Distributor.
- (b) Claimant R.P. Abbott shall now be compensated 1 hour per day commencing June 3, 1991, to continue until violation is corrected and Mr. Abbott is compensated for his claim, at punitive rate."

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.

In this claim, the Organization contends that Carrier violated Rule 1 of the Agreement when it arbitrarily removed the work tasks of issuing "river permits" from Claimant's position and transferred it to Jacksonville, Florida, where it is now being performed by employees not covered by the Scope of the Agreement.

The Organization points out that due to a reorganization of certain clerical and related functions, two Memorandum Agreements were established. It asserts that those Agreements assigned those duties and responsibilities associated with the consolidated car distribution work at Huntington, West Virginia, to Claimant's position and froze them there until otherwise jointly agreed to by the General Chairman and Carrier. However, the Organization asserts that the work historically assigned and performed by Claimant was arbitrarily transferred by Carrier.

Therefore, the Organization asks that Claimant be compensated one hour per day commencing June 3, 1991, and to continue until the violation is corrected.

Carrier argues that it did not violate the Agreement. It maintains that the authority to grant river permits was vested in the Manager of Coal Coordination, a non-contract position. Carrier insists that upon the advent of the centralized Coal Operations Department's new system, this authority was properly transferred from Huntington to Jacksonville. In its view, the fact that clerical employees may have performed some of the actions that documented the issuance of river permits did not bestow them with the decision making authority that was accorded the Manager of Coal Coordination.

In addition, Carrier submits that it is the Organization's burden to prove that the work in question was exclusively assigned clerical work. It argues that there is no evidence that proves the authority to commit large amounts of railroad equipment to individual customers was a function that had been completely transferred to contract personnel. Accordingly, for these reasons, Carrier asks that the claim be denied.

After a review of the record evidence, we conclude that the claim must be sustained, in part. The evidence indicates that the function of issuing river permits is bargaining unit work, which had been performed in the past by Claimant in his position of Assistant Chief Car Distributor.

As to the remedy, there is no evidence that would indicate that Claimant suffered any loss of compensation during the period in question. Claimant was fully employed during this entire time.

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In fact, Claimant was eventually transferred to Jacksonville, Florida, so as to follow the work in question.

Accordingly, and for the foregoing reasons, the claim is sustained, in part.

AWARD

Claim sustained in accordance with the Findings.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 1st day of September 1995.