

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 31468
Docket No. CL-32107
96-3-94-3-491

The Third Division consisted of the regular members and in addition Referee Robert Richter when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International
(Union
(National Railroad Passenger Corporation
((AMTRAK)

STATEMENT OF CLAIM: "Claim of the System Committee of the Organization (GL-11089) that:

The following claim is hereby presented in behalf of A. Cooper, C. Brown and W. Brunson that:

The Carrier violated the Amtrak Northeast Corridor Rules Agreement effective September 1, 1976, particularly Rule 1 and others, as well as the Rail Service Act beginning on October 6, 1989, when it contracted with Traveloc to furnish storage locker facilities and with full time uniform employees 7 days per week. Prior said work has historically been performed by Amtrak Mail and Baggage employees at this Union Station location.

Corporation now be required to pay each claimant 8 hours pay at the overtime rate of pay \$140.51 per day beginning April 1, 1990 and continuing each and every day 7 days per week 24 hours per day until this violation is corrected and work returned to proper employees.

Claim presented to Corporation in accordance with Rule 7-B-1 of the Agreement and should be allowed."

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.

On October 6, 1989 Carrier contracted with Traveloc, Inc. to provide lockers for Amtrak passengers at Union Station, Washington, D.C. rather than continue providing a parcel checkroom operated by Baggage Clerks. On May 22, 1990 the Organization filed this claim (retroactive to April 1, 1990) alleging the Carrier violated the Scope Rule of the Agreement.

As the moving party the Organization has the burden of proving that the work being performed by the contractor is work reserved exclusively to employees represented by it. Numerous Awards have held that the involved Scope Rule is the type known in the industry as a "general" Rule. In other words the contested work is not reserved specifically in words. Ergo, the Organization has the burden of showing the work is reserved exclusively by system-wide custom, practice or tradition.

The Organization is alleging the violation of the Agreement occurs 24 hours a day, 365 days a year. However, the record reveals there were no job abolishments as a result of the contractor supplying lockers for Amtrak passengers.

Not only were no jobs abolished, the record lacks one scintilla of evidence as to the work being performed by the contractor that was done by Carrier employees. The Organization failed to meet its burden of producing sufficient evidence to support its allegations. Mere allegations do not constitute proof.

This claim must be denied because the Organization failed to submit any factual evidence for our consideration.

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.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 25th day of April 1996.