

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 32052
Docket No. CL-31808
97-3-94-3-146

The Third Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

(Transportation Communications International Union
PARTIES TO DISPUTE: (
(Houston Belt & Terminal Railway Company

STATEMENT OF CLAIM:

“Claim of the System Committee of the Organization (GL-11020) that:

1. The Houston Belt & Terminal Railway Company violated the Rules Agreement effective April 15, 1972, as amended, when it inaugurated allowing and/or permitting employes of another craft to perform work which had historically and by agreement been assigned to the clerical employes.
2. The Houston Belt & Terminal Railway Company shall be required to afford clerical employes C. J. Butaud, S. Hutchins, G. L. Rios, R. C. Toler, D. G. Tones and W. M. Monterio, their successor or successors, subject to a join check of Carrier records, \$111.91 per employe per day, subject to general increases and COLA, beginning March 1, 1993 and continuing until such time as claim is settled and the work returned.”

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 were given due notice of hearing thereon.

As Third Party in Interest, the United Transportation Union - Yardmasters Department was advised of the pendency of this dispute and chose to file a Submission with the Board.

Involved here is the most recent change in the handling of data concerning car movement in the Carrier's Settegast Yard, which is dedicated to switching operations for the Union Pacific. The record shows that Yardmasters and PICL (Perpetual Inventory of Car Location) Clerks have previously adapted to the use of computer systems in the conveying and retention of information concerning car location and movement. This included, in particular, Yardmasters' use of electronic mail to advise PICL Clerks of car switching information, with the Clerks thereupon further processing the information.

On March 1, 1993, the Union Pacific discontinued use of a previous computer program at Settegast Yard and initiated a new program ("TCS") utilized throughout its system. According to the Carrier's undisputed explanation, the TCS program is able to accept the same electronic data formerly provided to the PICL Clerks, and it can interpret the data without the need for intermediate processing. As stated by the Carrier, "With the more sophisticated computer system the Yardmaster's information is processed by the computer to update the car records and the system eliminated the function that was previously performed by the PICL Clerks."

The Organization properly places great reliance on its "positions or work" Scope Rule. For the Organization to demonstrate a violation, however, there must be clear evidence that work has been given to other employees (here, Yardmasters) rather than being eliminated in the further technological advances described by the Carrier. This proof is lacking here.

In a parallel case involving the Organization and the Union Pacific at the UP's Fort Worth Yard and referring to a virtually identical change, Public Law Board No. 4288, Award 52 stated:

“In the final analysis, it cannot be concluded that work was removed from under the scope of the TCU Agreement and given to Yardmasters. Rather, [there has been] a change in the way in which Yardmasters performed a traditional function (that is, giving notice of changes made) [with] the introduction of a new computer system.”

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 10th day of June 1997.