

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 32174
Docket No. CL-32733
97-3-96-3-37**

The Third Division consisted of the regular members and in addition Referee Elizabeth C. Wesman when award was rendered.

**(Transportation Communications International Union
PARTIES TO DISPUTE: (
(Illinois Central Railroad**

STATEMENT OF CLAIM:

"Claim of the System Committee of the Organization (GL-11198) that:

- 1. Carrier violated the Agreement between the Parties at Jackson, Mississippi on December 25, 1994, when it did not permit TCU Agreement covered Clerical employees to perform crew hauling.**
- 2. Carrier shall now compensate the Senior Extra or the Senior Regularly assigned employee, namely Clerk R. H. Tindall eight hours at the time and one-half 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 were given due notice of hearing thereon.

On January 23, 1995 the Parties entered into an Agreement, Article XV of which reads as follows:

"ARTICLE XV - GRIEVANCE RESOLUTION BONUS

- (a) On February 3, 1995, all employees in active service on positions covered by this agreement will be paid one thousand dollars (\$1,000.00) each.
- (b) Upon payment of the amount indicated in paragraph (a), all claims and grievances, other than those involving disciplinary action, are considered resolved without prejudice to the position of either party and with the understanding that such settlements will not be cited by either party in any future case, nor used by either party to allege that the other has agreed to a particular practice.
- (c) Any employee who currently has a claim pending (except for those in Side Letter No. 2 to this Agreement) shall have the option of advising that he/she wishes to waive the \$1000.00 Grievance Resolution/Bonus, in order that the claim(s) may be progressed. Such option must be made in writing and received by the General Chairman within ten days of the effective date of this Agreement."

Side Letter No. 2 reads in pertinent part as follows:

"This will confirm our understanding regarding the application of Article XV of the Memorandum of Agreement resolving wages and work rules issues.

It is recognized that claims currently before the Third Division of the National Railroad Adjustment Board and those mutually held in abeyance pending the outcome of such claims are not subject to paragraph (b) of Article XV."

A careful review of the record before the Board indicates that Article XV disposes of the instant dispute. Because the claim does not fall under the "exception" enunciated

in Side Letter No. 2 (*supra*), it cannot now be progressed to the Board. Accordingly, the matter is moot, and the claim dismissed.

AWARD

Claim dismissed.

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 13th day of August 1997.