

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 32267
Docket No. CL-31933
97-3-94-3-292

The Third Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. 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-11047) that:

Claim No. 1 - Carrier's file: 88 0087, Union's file: Chgo-1155

Claim on behalf of Mr. Richard Shearer for fifty-eight (58) hours at the rate of \$13.47 per hour, a total of \$781.26, for twenty (29) working days, two hours per day, for the period April 25 through June 5, 1987, account his work being transferred and performed by other departments and outside vendors in violation of Rule 1.

Claim No. 2 - Carrier's file: 88 0126, Union's file: Chgo-1173

Claim on behalf of Mr. Richard Shearer for seventy-six (76) hours at the rate of \$13.47, a total of \$1,023.72, for thirty-eight (38) working days during the period of June 8, 1987, through July 29, 1987, account his work being transferred and performed by other departments and outside vendors in violation of Rules 1, 23 and others.

Claim No. 3 - Carrier's file: 88 0127, Union's file: Chgo-1174

Claim on behalf of Mr. Richard Shearer for fifty-four (54) hours at the rate of \$13.47, a total of \$727.38, for twenty-

seven (27) working days during the period of July 30, 1987, through September 4, 1987, account his work being transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 4 - Carrier's file: 88 1344, Union's file: Chgo-1183

Claim on behalf of Mr. Richard Shearer for sixty-four (64) hours at the rate of \$13.47, a total of \$862.08, for thirty-two (32) working days during the period of March 12, 1987, through April 24, 1987; and for forty-eight (48) hours at the rate of \$13.47, a total of \$646.56, for October 26, 1987 through November 30, 1987; and for forty-six (46) hours at the rate of \$13.47, a total of \$633.42, for twenty-three (23) working days during the period of March 1, 1988, through March 31, 1988; and for forty-two (42) hours at the rate of \$13.77, a total of \$578.34, for twenty-one (21) working days during the period of May 1, 1988, through May 31, 1988, account his work being transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 5 - Carrier's file: 88 1358, Union's file: Chgo-1194

Claim on behalf of Mr. Richard Shearer for the period of June 1 through June 30, 1988, a total of twenty-two (22) work days, two (2) hours per day; and the period of July 1 through July 30, 1988, a total of twenty (20) work days, two (2) hours per day, account his work transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 6 - Carrier's file: 89 0081, Union's file: Chgo-1209

Claim on behalf of Mr. Richard Shearer for some eighty-six (86) hours at the rate of \$13.77, a total of \$1,211.76, for forty-four (44) working days during the period of August 1,

1988, through September 30, 1988, account his work transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 7 - Carrier's file: 89 0128, Union's file: Chgo-1220

Claim on behalf of Mr. Richard Shearer for the period of October 1, 1988 through October 31, 1988, a total of twenty-one (21) working days, two hours (2) per day. For a total of some forty-two (42) hours and a total of \$578.34 based upon the rate of \$13.77 per hour, account his work transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 8 - Carrier's file: 89 0130, Union's file: Chgo-1227

Claim on behalf of Mr. Richard Shearer for the period of November 1, 1988 through November 30, 1988, a total of twenty (20) working days, two hours (2) per day. For a total of some forty (40) hours and a total of \$550.80 based upon the rate of \$13.77 per hour, account his work transferred and performed by other departments and outside vendors in violation of Rule 1, 23, and others.

Claim No. 9 - Carrier's file: 89 0348, Union's files: Chgo-1230

Claim on behalf of Mr. Richard Ochoa for seven (7) hours per day commencing with the date of November 17, 1988, and for eleven (11) hours and fifteen (15) minutes per month commencing with the date of November 1, 1988, based on the rate of \$105.95, account his work being transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 10 - Carrier's file: 89 0347, Union's file: Chgo-1232

Claim on behalf of Mr. Richard Shearer for forty (40) hours at the rate of \$13.77, a total of \$550.80, for twenty (20) working days, two hours per day for the period of November 1, 1988, through November 30, 1988, account his working being transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 11 - Carrier's file: 89 0356, Union's file: Chgo-1233

Claim on behalf of Mr. Richard Shearer for forty-four (44) hours at the rate of \$13.77, a total of \$605.88, for twenty-two (22) working days, two hours per day for the period of December 1, 1988, through December 31, 1988, and for forty-two (42) hours at the rate of \$13.77 per hour, a total of \$578.34, for twenty-one (21) working days, two hours per day for the period of January 1, 1989, through January 31, 1989, account his work being transferred and performed by others.

Claim No. 12 - Carrier's file: 89 0585, Union's file: Chgo-1292

Claim on behalf of Mr. Richard Shearer for forty (40) hours at the rate of \$13.77, a total of \$550.80, for twenty (20) working days, two hours per day for the period of February 1, 1989, through February 28, 1989, account his work being transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 13 - Carrier's file: 89 0730, Union's file: Chgo-1298

Claim on behalf of Mr. Richard Shearer for forty-six (46) hours at the rate of \$13.77, a total of \$633.42, for twenty-three (23) working days, two hours per day for the period of March 1, 1989, through March 31, 1989, and for forty (40) hours at the rate of \$13.77 per hour, a total of \$550.80, for twenty (20) working day, two hours per day for the period of April 1, 1989, through April 30, 1989, account his work being

transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 14 - Carrier's file: 89 1033, Union's file: Chgo-1305

Claim on behalf of Mr. Richard Shearer for forty-four (44) hours at the rate of \$13.77, a total of \$605.88, for twenty-two (22) working days, two hours per day for the period of May 1, 1989, through May 31, 1989, account his work being transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 15 - Carrier's file: 89 1107, Union's file: Chgo-1314

Claim on behalf of Mr. Richard Shearer for forty-four (44) hours at the rate of \$14.86, a total of \$653.84, for twenty-two (22) working days, two hours per day for the period of June 1, 1989, through June 30, 1989, account his work being transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 16 - Carrier's file: 89 1108, Union's file: Chgo-1317

Claim on behalf of Mr. Richard Shearer for forty (40) hours at the rate of \$14.86, a total of \$594.40, for twenty (20) working days, two hours per day for the period of July 1, 1989, through July 31, 1989, account his work being transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 17 - Carrier's file: 89 1125, Union's file: Chgo-1321

Claim on behalf of Mr. L. E. Johnson, ID 2185362, for three (3) hours per day commencing with the date of September 7, 1989, and for four (4) hours per day commencing with the date of September 7, 1989, based on the rate of \$105.95, account his work being transferred and performed by other

departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 18 - Carrier's file: 89 1126, Union's file: Chgo-1322

Claim on behalf of Mr. Richard Shearer for forty-six (46) hours at the rate of \$14.86, a total of \$683.56, for twenty-three (23) working days, two hours per day for the period of August 1, 1989, through August 31, 1989, account his work being transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 19 - Carrier's file: 89 1275, Union's file: Chgo-1326

Claim on behalf of Mr. Richard Shearer for forty 940) hours at the rate of \$14.86, a total of \$594.40, for twenty (20) working days, two hours per day for the period of September 1, 1989, through September 30, 1989, account his work being transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 20 - Carrier's file: 90 0295, Union's file: Chgo-1333

Claim on behalf of Mr. Richard Shearer for forty-four (44) hours at the rate of \$14.86, a total of \$653.84, for twenty-two (22) working days, two hours per day for the period of October 1, 1989, through October 31, 1989, account his work being transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 21 - Carrier's file: 90 0359, Union's file: Chgo-1346

Claim on behalf of Mr. Richard Shearer for forty-two (42) hours at the rate of \$14.86, a total of \$624.12, for twenty-one (21) working days, two hours per day for the period of December 1, 1989, through December 31, 1989, account his

work being transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 22 - Carrier's file: 90 0423, Union's file: Chgo-1360

Claim on behalf of Mr. Richard Shearer for forty-four (44) hours at the rate of \$14.86, a total of \$653.84, for twenty-two (22) working days, two hours per day for the period of January 1, 1990, through January 31, 1990, account his work being transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 23 - Carrier's file: 90 0634, Union's file: Chgo-1364

Claim on behalf of Mr. Richard Shearer for forty-four (44) hours at the rate of \$14.86, a total of \$653.84, for twenty-two (22) working days, two hours per day for the period of March 1, 1990, through March 31, 1990, account his work being transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 24 - Carrier's file: 90 0638, Union's file: Chgo-1365

Claim on behalf of Mr. Richard Shearer for thirty-six (36) hours at the rate of \$14.86, a total of \$534.96, for eighteen (18) working days, two hours per day for the period of February 1, 1990, through February 28, 1990, account his work being transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 25 - Carrier's file: 90 0864, Union's file: Chgo-1368

Claim on behalf of Mr. Richard Shearer for forty-two (42) hours at the rate of \$14.86, a total of \$624.12, for twenty-one (21) working days, two hours per day for the period of April 1, 1990, through April 30, 1990, account his work being

transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 26 - Carrier's file: 90 0902, Union's file: Chgo-1371

Claim on behalf of Mr. Richard Shearer for forty-six (46) hours at the rate of \$14.86, a total of \$683.56, for twenty-three (23) working days, two hours per day for the period of May 1, 1990, through May 31, 1990, account his work being transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 27 - Carrier's file: 90 0904, Union's file: Chgo-1372

Claim on behalf of Mr. Richard Shearer for forty-two (42) hours at the rate of \$14.86, a total of \$624.12, for twenty-one (21) working days, two hours per day for the period of June 1, 1990, through June 30, 1990, account his work being transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 28 - Carrier's file: 91 0209, Union's file: Chgo-1375

Claim on behalf of Mr. Richard Shearer for forty-six (46) hours at the rate of \$14.86, a total of \$683.56, for twenty-three (23) working days, two hours per day for the period of October 1, 1990, through October 31, 1990, account his work being transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 29 - Carrier's file: 91 0210, Union's file: Chgo-1377

Claim on behalf of Mr. Richard Shearer for forty (40) hours at the rate of \$14.86, a total of \$594.40, for twenty (20) working days, two hours per day for the period of November 1, 1990, through November 30, 1990, account his work being

transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 30 - Carrier's file: 91 0208, Union's file: Chgo-1378

Claim on behalf of Mr. Richard Shearer for forty (40) hours at the rate of \$14.86, a total of \$594.40, for twenty (20) working days, two hours per day for the period of December 1, 1990, through December 31, 1990, account his work being transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 31 - Carrier's file: 91 0344, Union's file: Chgo-1380

Claim on behalf of Mr. Richard Shearer for forty-four (44) hours at the rate of \$14.86, a total of \$653.84, for twenty-two (22) working days, two hours per day for the period of January 1, 1991, through January 31, 1991, account his work being transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 32 - Carrier's file: 91 0478, Union's file: Chgo-1381

Claim on behalf of Mr. Richard Shearer for forty (40) hours at the rate of \$14.86, a total of \$594.40, for twenty (20) working days, two hours per day for the period of February 1, 1991, through February 28, 1991, account his work being transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 33 - Carrier's file: 91 0479, Union's file: Chgo-1382

Claim on behalf of Mr. Richard Shearer for forty-two (42) hours at the rate of \$14.86, a total of \$624.23, for twenty-one (21) working days, two hours per day for the period of March 1, 1991, through March 31, 1991, account his work

being transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 34 - Carrier's file: 91 0515, Union's file: Chgo-1383

Claim on behalf of Mr. Richard Shearer for forty-four (44) hours at the rate of \$14.86, a total of \$653.84, for twenty-two (22) working days, two hours per day for the period of April 1, 1991, through April 30, 1991, account his work being transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 35 - Carrier's file: 91 0561, Union's file: Chgo-1384

Claim on behalf of Mr. Richard Shearer for forty (40) hours at the rate of \$14.86, a total of \$594.40, for twenty (20) working days, two hours per day for the period of June 1, 1991, through June 30, 1991, account his work being transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 36 - Carrier's file: 91 0566, Union's file: Chgo-1385

Claim on behalf of Mr. Richard Shearer for forty-four (44) hours at the rate of \$14.86, a total of \$653.84, for twenty-two (22) working days, two hours per day for the period of May 1, 1991, through May 31, 1991, account his work being transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 37 - Carrier's file: 91 0655, Union's file: Chgo-1386

Claim on behalf of Mr. Richard Shearer for forty-four (44) hours at the rate of \$15.31, a total of \$673.64, for twenty-two (22) working days, two hours per day for the period of July 1, 1991, through July 31, 1991, account his work being

transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 38 - Carrier's file: 91 0667, Union's file: Chgo-1387

Claim on behalf of Mr. Richard Shearer for forty-two (42) hours at the rate of \$15.31, a total of \$643.02, for twenty-one (21) working days, two hours per day for the period of September 1, 1991, through September 30, 1991, account his work being transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 39 - Carrier's file: 91 0660, Union's file: Chgo-1388

Claim on behalf of Mr. Richard Shearer for forty-four (44) hours at the rate of \$15.31, a total of \$673.64, for twenty-two (22) working days, two hours per day for the period of August 1, 1991, through August 31, 1991, account his work being transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 40 - Carrier's file: 92 0134, Union's file: Chgo-1392

Claim on behalf of Mr. Richard Shearer for forty-two (42) hours at the rate of \$15.31, a total of \$643.02, for twenty-one (21) working days, two hours per day for the period of November 1, 1991, through November 30, 1991, account his work being transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 41 - Carrier's file: 92 0133, Union's file: Chgo-1393

Claim on behalf of Mr. Richard Shearer for forty-six (46) hours at the rate of \$15.31, a total of \$704.20, for twenty-three (23) working days, two hours per day for the period of October 1, 1991, through October 31, 1991, account his work

being transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 42 - Carrier's file: 92 0140, Union's file: Chgo-1394

Claim on behalf of Mr. Richard Shearer for forty-four (44) hours at the rate of \$15.31, a total of \$673.64, for twenty-two (22) working days, two hours per day for the period of December 1, 1991, through December 31, 1991, account his work being transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 43 - Carrier's file: 92 0143, Union's file: Chgo-1395

Claim on behalf of Mr. Richard Shearer for forty-six (46) hours at the rate of \$15.31, a total of \$704.20, for twenty-three (23) working days, two hours per day for the period of January 1, 1992, through January 31, 1992, account his work being transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 44 - Carrier's file: 92 0222, Union's file: Chgo-1398

Claim on behalf of Mr. Richard Shearer for forty-four (44) hours at the rate of \$15.31, a total of \$673.64, for twenty-two (22) working days, two hours per day for the period of March 1, 1992, through March 31, 1992, account his work being transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 45 - Carrier's file 92 0223, Union's file: Chgo-1399

Claim on behalf of Mr. Richard Shearer for forty-four (44) hours at the rate of \$15.31, a total of \$673.64, for the twenty-two (22) working days, two hours per day for the period of April 1, 1992, through April 30, 1992, account his work being

transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 46 - Carrier's file: 92 0920, Union's file: Chgo-1401

Claim on behalf of Mr. Richard Shearer for forty-two (42) hours at the rate of \$15.31, a total of \$643.02, for twenty-one (21) working days, two hours per day for the period of May 1, 1992, through May 31, 1992, account his work being transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 47 - Carrier's file: 92 0314, Union's file: Chgo-1402

Claim on behalf of Mr. Richard Shearer for forty-four (44) hours at the rate of \$15.31, a total of \$673.64, for twenty-two (22) working days, two hours per day for the period of June 1, 1992, through June 30, 1992, account his work being transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 48 - Carrier's file: 92 0363, Union's file: Chgo-1403

Claim on behalf of Mr. Richard Shearer for forty-six (46) hours at the rate of \$15.31, a total of \$704.26, for twenty-three (23) working days, two hours per day for the period of July 1, 1992, through July 31, 1992, account his work being transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 49 - Carrier's file: 92 0362, Union's file: Chgo-1404

Claim on behalf of Mr. Richard Shearer for forty-two (42) hours at the rate of \$15.31, a total of \$643.02, for twenty-one (21) working days, two hours per day for the period of August 1, 1992, through August 31, 1992, account his work

being transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 50 - Carrier's file: 93 0001, Union's file: Chgo-1408

Claim on behalf of Mr. Richard Shearer for forty-four (44) hours at the rate of \$15.31, a total of \$673.64, for twenty-two (22) working days, two hours per day for the period of October 1, 1992, through October 31, 1992, account his work being transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 51 - Carrier's file: 93 0094, Union's file: Chgo-1409

Claim on behalf of Mr. Richard Shearer for forty-four (44) hours at the rate of \$15.31, a total of \$673.64, for twenty-two (22) working days, two hours per day for the period of September 1, 1992, through September 30, 1992, account his work being transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 52 - Carrier's file: 93 0257, Union's file: Chgo-1410

Claim on behalf of Mr. Richard Shearer for forty-two (42) hours at the rate of \$15.31, a total of \$643.02, for twenty-one (21) working days, two hours per day for the period of November 1, 1992, through November 30, 1992, account his work being transferred and performed by other departments and outside vendors in violation of Rules 1, 23, and others.

Claim No. 53 - Carrier's file: 88 0131, Union's file: 666-1071

(a) The Carrier violated the terms of the General Agreement and Memoranda thereto when it utilized the services of non-contract people to perform the duties of the Section Storekeeper in the Storeroom on October 29, 1987, in violation of Rule 1; and,

(b) The Carrier shall now arrange to allow Section Storekeeper F. B. Arn, eight (8) hours at the punitive rate for the above date.

Claim No. 54 - Carrier's file: 87 0298, Union's file: 504-3687

(a) Carrier violated Rules 1, 23, 66, and others, of the Clerks' General Agreement on November 10, 1986, and continuing, when they transferred, divided and redistributed work assigned to and historically performed by clerical employees at Huntington Store Department to Mr. Harold E. Nicolas, Foreman Tool and Locker Control, position No. 0482-46-02, Mechanical Department, Huntington, West Virginia; and,

(b) Beginning November 10, 1986, and continuing until work is properly returned, Carrier shall compensate each of the below listed employees at the pro rata rate of their position an amount equal to time previously devoted to the material involved (each day); J. H. Lane, L. B. Bradshaw, K. L. Songer, D. E. Hannon, and H. G. Barney.

Claim No. 55 - Carrier's file: 90 0108, Union's file: 504-3960

(a) Carrier violated Rule 1 of the Clerks' General Agreement No. 10 when, on the date of October 4, 1989, it permitted and/or required an individual in the employ of the Bowman Distribution Company, not covered by the Agreement, to perform work reserved exclusively for employees covered thereby; and,

(b) Carrier shall now compensate Clerk O. L. Edwards, one hour (1) pay at the pro rata rate of his position for the date of October 4, 1989."

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 can readily be determined by a review of the Statement of Claim, there are here under review 55 claims, combined for presentation to the Board. The same Claimant is involved in the overwhelming majority of the claims. Under dispute is the Carrier's implementation of use of an outside vendor in reference to providing supplies to various Carrier departments.

During the on-property processing of these claims, the parties made repeated reference to Public Law Board No. 3540, Award 58. That Award was issued on May 28, 1993, and the Board will review it in detail, below. The claims here under review, after proceeding through part of the claim handling procedure were, by mutual consent, held in abeyance, pending issuance of the aforementioned Award.

At the outset, the Carrier argues the Organization had agreed that the claims now before the Board would be disposed of on the basis of the Public Law Board No. 3540, Award 58. In sharp contrast, the Organization contends that the 55 claims would be guided by that Award only to the extent applicable (that is, "based upon their relative merits in accordance with the Board's findings"). In the Organization's view, the conclusions in that Award are not applicable to the 55 claims because of differing circumstances. The Organization's current Submission provides detailed argument as to why that Award is distinguishable and thus believes this Board should resolve the claims on their merits. As to the Organization's Submission, the Carrier objects to the introduction of information clearly not presented in the on-property handling.

Thus, the Board's first task is to resolve whether the parties agreed to accept the Public Law Board No. 3540, Award 58 in settlement of the 55 claims, without having each claim individually reviewed on its merits.

Correspondence of the General Chairman to the Senior Director, Employee Relations and other Carrier officials extending through 1992 lists most or all of the 55 claims. Most of these letters are countersigned by a Carrier representative. Sample statements from these letters are as follows:

February 26, 1992: "This refers to Case No. 58 of the Public Law Board No. 3540, which pertains to a dispute revolving around the Carrier's utilization of an outside vendor (DVS) for the procurement of supplies and materials. . . .

As you may be aware, there are currently other claims that are predicated upon and directly related to the dispute now before the Board [presumably PLB 3540]. . . . The claims are identified as follows: [41 claims listed]

Furthermore, that the decision in Case No. 58 of PLB 3540 be the basis for the settlement of all similar claims and that they be disposed of in accordance with the Board's findings."

February 27, 1992: "[Claim 90-0108] held in abeyance pending the decision in [PLB 3540] Case No. 58, with the decision in that case being the basis for the settlement for this dispute by the parties."

April 22, 1992: "It is also noted that through mutual agreement other claims of an identical nature involving the Claimant were to be held in abeyance pending a case before PLB 3540 which involved a directly similar dispute. Therefore, I suggest that this claim too be held pending that decision with such being the basis for a final settlement of this case."

December 8, 1992: "Furthermore, as agreed to in my February 26, 1992, letter, that the decision of PLB 3540 in Case No. 58 be the basis for the settlement of the above listed [six] claims, and all similar claims, in accordance with the [PLB 3540] Board's findings."

From the above excerpts, it is clear to this Board that the Organization set forth its belief that the claims here under review are "similar" to those considered in Public Law Board No. 3540, Award 58 and that the Organization, in exchange for the extension of time limits, was prepared to accept that Award as settling these pending claims.

Consequently, it is now far too late for the Organization to take the entirely different position that the facts in the pending claims are at odds with those considered in Public Law Board No. 3540, Award 58 and that this Board should proceed as if there had been no agreement as repeatedly confirmed in the General Chairman's correspondence.

The holding of claims in abeyance pending results of another dispute is an accepted and expeditious procedure. Parties follow such procedure after reviewing the contents of a series of claims. Surely the Organization can be held knowledgeable both of the nature of the Claim considered by Public Law Board No. 3540 and the other claims. If they differed as the Organization now argues, there was no purpose in the original agreement.

The Board now turns to Public Law Board No. 3540, Award 58 and finds itself faced with still another hurdle. It states, as is applicable here, "Carrier implemented a procedure that eliminated the duties of warehousing whereby local company officials would request supplies directly from the vendor." It summarizes the Organization's position as follows:

"The Organization contends that the removal of part of the work of the Storekeeper position was a violation of the Scope Rule of the Agreement. It maintains that the work at issue has been exclusively performed by workers at that location; and that all storekeeper work had been traditionally recognized as belonging to Clerks on the property." [The Board identifies this as Issue No. 1.]

"In addition, [emphasis added] the Organization alleges that Rule 23 of the Agreement was violated in that work from Claimant's position was transferred to Steno-Clerk (Position C-7) without an agreement between the parties as so provided in the controlling Agreement." [The Board identifies this as Issue No. 2.]

As to Issue No. 2, Award 58 sustained the claim, granting a monetary remedy for the period during which no Rule 23 Agreement had been reached between the parties. Issue No. 2, however, is not raised in the 55 claims, and thus this portion of Award 58 offers no guidance here.

Issue No. 1 is, however, closely related to the 55 claims. Award 58 addresses Issue No. 1 only briefly, as follows:

“[Carrier] maintains that the work in dispute was not transferred to Carrier officials. Officials made requisitions which orders were then given to the Storeroom employees who ordered the supplies from the vendor. The user departments, under the new procedure, order directly from the vendor which eliminated the need to maintain an inventory on the property and likewise eliminating the additional handling performed by Claimant. The work that the Claimant had been doing was not transferred but discontinued because there was no need for it. . . .

. . . Carrier does have the right to eliminate work that is no longer necessary. . . .

[While providing compensation as to Issue No. 2], In all other aspects, the claim is denied.”

The Organization having agreed to follow the findings of Award 58 as to Issue No. 1, it necessarily follows that the Board has no authority but to find that the 55 claims have been disposed of by the denial portion of Award 58.

The Organization, nevertheless, here raises certain considerations to distinguish the 55 claims from Award 58. Noteworthy is the consideration that the vendor was allegedly permitted to perform certain functions on the Carrier's property, as distinct from the situation considered in Award 58. In addition, the Organization cites Public Law Board No. 4596, Award 3 and Public Law Board No. 4848, Award 22, both involving other carriers. These sustaining Awards do appear to support the Organization's position here.

These arguments and Awards are of no avail here. To repeat for emphasis, the Board has found that there was an agreement between the parties to be guided by Award 58. There is also the serious problem, at this late date, of determining the extent of appropriate compensation, even if the Board were to determine that some remedy is required. In most instances, the claims seek ten hours' pay a week. While the circumstances may have varied, it is worth noting that Public Law Board No. 4596, Award 2 and Public Law Board No. 4848, Award 3 awarded compensation of three hours per week and two hours per week, respectively.

The Board has no basis to determine that Award 58 is other than a reasonable and complete response as to Issue No. 1. The Board further has no basis to determine that, after the issuance of Award 58, the Organization is in proper standing to disavow its arrangement and in effect start all over from square one.

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 7th day of October 1997.