

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 34038  
Docket No. CL-34693  
00-3-98-3-298**

The Third Division consisted of the regular members and in addition Referee Edwin H. Benn when award was rendered.

**(Transportation Communications International Union  
PARTIES TO DISPUTE: (  
(Burlington Northern Santa Fe Railway Company**

**STATEMENT OF CLAIM:**

**“Claim of the System Committee of the Organization (GL-12021) that:**

- 1. Carrier violated and continues to violate the Scope rule of the Working Agreement dated May 6, 1980, when it failed or refused to use clerical employees at the Hub Center, Dilworth, Minnesota, to perform work that had been performed by clerical employees at Grand Forks, North Dakota, and instead, allowed or required that work to be performed by employees of a contractor (Trailer Transfer).**
- 2. Carrier shall now compensate the Senior Available Extra List Employee at Dilworth at the rate of \$105.63 per day. In the event no Extra List Employee is available, the claim is on behalf of the First Available Guaranteed Rotating Extra Board Employee; and in the event none are available, the claim is for eight hours pay at the overtime rate in accordance with Rule 37 on behalf of the Senior Available Employee at Dilworth.**

**The claim is filed beginning May 14, 1992, and continues each and every day thereafter until the work is returned to clerical employees at Dilworth, Minnesota.**

**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.

Prior to 1984, the Carrier operated a terminal at Grand Forks, North Dakota. At Grand Forks, Scope covered employees entered data into the Carrier's Complete Operating Movement Processing and Service System ("COMPASS") concerning the arrival and departure of TOFC which included the deramping and highway departures of the trailers.

In 1984, the Carrier closed Grand Forks. The clerical work was transferred to Clerks at Dilworth, Minnesota.

In 1992, the Carrier implemented HCS (Hub Control System) at Dilworth. HCS keeps track of trailer movement on the highways after they depart various hub centers which do not interface with rail facilities. According to the Carrier, the trailers may not even physically move through the town or city designated as a hub and the hubs are for "paper" purposes only. The record sufficiently establishes that prior to implementation of HCS, no record was kept of such movements between points that did not interface with rail facilities.

In 1992, Grand Forks was designated as a "paper" or "satellite" hub for HCS. The clerical work for HCS at Grand Forks was assigned to a contractor, Trailer Transfer. This claim asserting a violation of the Scope Rule followed.

The Scope Rule provides that "Work now covered by the scope of this Agreement shall not be removed except by agreement between the parties." It has been held that "...HCS is indeed 'new work' not previously covered under the Scope Rule. ..." See Public Law Board 5555, Award No. 10. See also, K Board, Award Nos. 193 and 194. Those Awards apply and govern the outcome of this dispute. Work was not taken from clerical forces at Dilworth and assigned to strangers to the Agreement. The specific type of work performed by the contractor's employees under HCS at Grand

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Forks was not previously performed by Scope covered employees. The Scope Rule was not violated.

The claim will therefore be denied.

**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 May, 2000.