

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 35358
Docket No. CL-33811
01-3-97-3-256**

The Third Division consisted of the regular members and in addition Referee Robert M. O'Brien 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 Transportation Communications Union(GL-11731) that:

- 1. Carrier violated the Schedule Agreement effective December 1, 1980 at Springfield, Missouri, when the work of physically checking the Rip Tracks and preparation of a list used to adjust the standing order of cars in the Carrier's YMS computer system was removed from clerical employees under the scope of the Agreement and given to strangers to the Agreement.**
- 2. Carrier shall now be required to compensate the Senior Available GREB or Extra List Employee for eight (8) hours compensation at the rate of the Compass Operator (\$106.09 per day) beginning January 31, 1994, and continuing on each and every day thereafter until said violation ceases and the work is returned to the craft and class of employees represented by Transportation Communications Union.**

If GREB or Extra List employees are unavailable, claim is for proper respondents pursuant to Rules 37 and 38 of the Agreement.

The amount claimed is in addition to all other earnings Claimants may have received on the claimed dates and is subject to future wage increases."

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 January 31, 1994, the Carrier maintained Compass Operator Position No. 18 at the Springfield, Missouri, Yard Office. This position was assigned from 3:30 P.M. to 11:30 P.M. seven days a week. Each workday between 4:00 P.M. and 5:00 P.M. the Compass Clerk would physically check the cars on the four tracks at the Springfield Car Repair Facility and prepare a list of the cars on Form 15687. The list recorded the order of standing on each of the RIP tracks. The Compass Clerk took this list back to the Yard Office where a Bill Clerk used it to update the standing order of cars in the Carrier's computerized Yard Management System (YMS).

Each afternoon the Compass Clerk would also pick up Form 15265 that had been completed by the Mechanical Department Foremen. Form 15265 recorded the cars that had been repaired and the Bill Clerk would use this list to release cars from bad order status in the computer.

On or about January 31, 1994, the Carrier abolished 28 positions at the Springfield Yard, including Compass Operator Position No. 18. Train and car reporting responsibilities were transferred from the Springfield Yard to the Carrier's Customer Support Center in Fort Worth, Texas.

Subsequent to January 31, 1994, a clerical employee no longer physically verified the standing of cars on the four tracks at the Springfield car repair facility. Rather, Form 15265 that is prepared by the Mechanical Department is used to make

adjustments in the standing order of cars in the YMS in addition to being used to release cars from bad order status in the YMS.

On February 1, 1994, the Organization filed a claim on behalf of the senior available extra list employee for eight hours' compensation at the Compass Operator's rate for each day on and after January 31, 1994, that the Carrier allegedly assigned scope covered work to the Mechanical Department at the Springfield Yard. The Organization contends that the Carrier is allowing Mechanical Department employees to physically check the track at the Springfield Car Shop and record the order of standing of cars on each track. It is the Organization's position that this work was performed by the Compass Operator Position No. 18 prior to January 31, 1994.

The Carrier denied the claim contending that the Springfield Mechanical Department employees are not verifying the standing of cars on the Car Shop tracks. Rather, the standing is obtained from Form 15265 which Mechanical Department Foremen have always completed. The Carrier insists that clerical employees at the Springfield Yard have never completed this form.

The work that the Organization contends has been improperly removed from the scope of the Clerks' Agreement is a physical check of the four RIP tracks at the Springfield Car Shop to verify the standing order of cars on each track. However, the separate work of physically checking the RIP tracks to verify the standing order of cars on each track is no longer being performed at Springfield. Rather, the standing order of cars is now obtained from Form 15265 which form was never prepared by Compass Operator Position No. 18. Mechanical Department Foremen have always used this form to report the condition of cars on the repair track.

That the cars were listed on Form 15265 in their actual order of standing is immaterial, in the Board's opinion. Naturally, Mechanical Department employees recorded the cars as they actually stood on the tracks. It would be illogical to record them any other way. Using Form 15265 to record the standing order of cars at the Springfield Car Shop tracks in addition to recording the cars that had been repaired was not a violation of the Organization Scope Rule, in our view.

For all the foregoing reasons, the Board finds that work covered by the Scope of the Clerks' Agreement was not removed from the Agreement subsequent to January 31, 1994, and the claim must be denied as a result.

Form 1
Page 4

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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 20th day of March, 2001.