

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 35526
Docket No. CL-35489
01-3-99-3-396**

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

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

STATEMENT OF CLAIM:

“Claim of the System Committee of the Organization (GL-12374) that:

- 1. Carrier violated the Scope of our Agreement when it directed or allowed strangers to the Agreement to perform clerical (crew hauling) work on various dates described therein [June 4, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 23, 25, 26, 27, and 28, 1997].**
- 2. Carrier shall be required to compensate Claimants at Great Falls, Montana, for eight (8) hours pro rata pay, per violation, to the first-out, qualified GREB or Extra List employee; if none available, eight (8) hours pay at the applicable overtime rate, per violation to the appropriate regularly assigned employee.”**

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.

The merits of the dispute in this case have been fully addressed in Third Division Awards 35514 and 35515. In sum, on December 1, 1980, crew hauling at Great Falls, Montana, was exclusively performed by Clerks and there was no agreement by the Organization for the Carrier to remove that work from the covered employees. The Carrier therefore violated Rule 1 and the May 6, 1980 Side Letter. The fact that the work in dispute may have included crew hauling resulting from the Carrier's rerouting of traffic does not change the result.

The claim for the dates covered in the consolidated Statement of Claim is therefore sustained. The adversely affected employees shall be made whole at the appropriate contract rate for the amount of hours of crew hauling performed by strangers to the Agreement on those dates. The matter is now remanded to the parties to determine the appropriate compensation for the affected employees.

AWARD

Claim sustained in accordance with the Findings.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 24th day of July, 2001.