

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 36272
Docket No. CL-35814
02-3-99-3-803**

The Third Division consisted of the regular members and in addition Referee John B. LaRocco when award was rendered.

**(Transportation Communications International Union
PARTIES TO DISPUTE: (
(Springfield Terminal Railway Company**

STATEMENT OF CLAIM:

“Claim of the System Committee of the Organization (GL-12490) that:

**On behalf of Mr. Robert Michaels, TSR, Rigby Yard (Portland, Maine),
for eight (8) hours at the rate of time and one half, for October 28, 1997.**

**Carrier violated the Agreement when it allowed Mr. Victor Tardiff,
Non-Scope Employee to perform clerical IBM work on October 28, 1997,
without calling a spare TSR at straight time.**

**Rules violated are 1.1, 1.2, 1.3, 1.4, 1.5, 1.6, 1.7, 1.8, 1.9, 18A-1, 18A-2,
18A-3, 18A-4, 34.1, 34.2, 34.3, 34.4, 34.5, 34.6, 34.9, 34.10, 34.11, and all
other rules of this Agreement.**

Claim is valid and must be paid.”

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 Organization brought a claim on behalf of the Claimant, a Clerk at Rigby Yard in Portland, Maine, charging that the Carrier improperly assigned work reserved to the clerical craft to a clerical Supervisor on October 28, 1997. The Organization described the disputed work as clerical IBM work which the Organization alleged was work properly belonging to employees covered by the applicable Agreement pursuant to the Scope Rule.

After reviewing the record, the Board finds that the claim herein is a repetition of the claim progressed to the Board resulting in Third Division Award 34200. The claim adjudicated by Award 34200 concerned exactly the same description of work as the description herein and covered the same day (October 28, 1997). In Award 34200, the Board denied the claim because the Organization failed to come forward with sufficient evidence to prove that the the Carrier violated the Agreement. Under the doctrine of res judicata, Award 34200 fully and finally disposed of the dispute herein.

Because this claim is both redundant and moot, the claim must be 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 28th day of October 2002.