

Award No. 1217
Docket No. CL-1224

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Harris L. Danner, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES**

CHICAGO AND NORTH WESTERN RAILWAY COMPANY

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that the work of producing copies of station reports and records through a photographic process at Proviso Freight Station is subject to the scope and operation of the Clerks' Working Agreement and that said work shall be classified, rated, bulletined and assigned to employees subject to said Agreement in accordance with the rules thereof."

JOINT STATEMENT OF FACTS: "Prior to July 1, 1938 the work of making typewritten copies of way-bills covering all carload freight shipments delivered to the Chicago and North Western Railway Company by connecting lines at Proviso Freight Station and way-bills covering all carload freight shipments delivered to connecting lines by the C. & N. W. Railway was classified, rated, bulletined and assigned to clerical employees in accordance with the rules of the Clerks' Agreement."

"Effective July 1, 1938 the carrier discontinued the method of making copies of such way-bills as above described and in lieu thereof, installed a Photographic Machine known as the Recordak and a Projecting Machine, the operation of which together with the development of films, produced copies of such way-bills for use in connection with the keeping of records and accounts and other office clerical work."

"The operation of the Recordak Machine was and still is assigned to employees covered by the Clerks' Agreement. The development of the films which are later used as office records has been and still is being performed by employees of the Eastman Kodak Company. After the films are developed by the employees of the Eastman Kodak Company they are returned to the office of the carrier and become a permanent station record."

POSITION OF EMPLOYES: "Rule 1 of the Clerks' Agreement effective January 1st, 1936 reads in part as follows:

'EMPLOYES AFFECTED.

These rules, effective January 1, 1936, will govern the hours of service and working conditions of the following classes of employees on the Chicago and North Western Railway:

1. Clerks,.....
Mechanical device operators,
.....
Stenographers,
.....

There is in evidence an agreement between the parties bearing effective date of January 1, 1936.

OPINION OF BOARD: The facts in this case are jointly submitted by the parties. It is agreed that on the 1st day of July, 1938, the Carrier discontinued the usual method of making way-bills covering carload freight shipments by typewriter or billing machine and thereafter installed a Recordak and Projecting Machine for that purpose, using this machine to make copies of such way-bills for the same purpose as same copies were used prior thereto.

It is admitted that the entire operation of the machine is performed by employees under the Clerk's Agreement. The only disagreement is as to whether or not the Carrier should be compelled to have the films developed by its own employees or whether the films may be developed by the Eastman Kodak Company.

An examination of the agreement does not disclose that there is any provision requiring that these films be developed by employees coming under the agreement. The agreement does not disclose any rule that would require the Carrier to install facilities for the developing of the films.

The installing of the Recordak and Projecting Machine for the purpose of making these copies is a method of simplifying the work of the company.

In the light of present conditions and in view of the small volume of work necessary to develop the films, and the expense of installing equipment to develop the films, a reasonable interpretation of the agreement will allow the company to have the films developed by an outside company, where such action is not done for the purpose of evading the application of the agreement.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the carrier and the employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the work in question is not covered by the current agreement and the Carrier has not violated the same.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 28th day of October, 1940.