

Award No. 10732

Docket No. CL-10183

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Robert J. Ables, Referee

PARTIES TO DISPUTE:

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

**CHICAGO, MILWAUKEE, ST. PAUL AND
PACIFIC RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

1. Carrier violated and continues to violate the Clerks' Rules Agreement at Milwaukee, Wisconsin when it assigned and continues to assign janitor work to employees not covered thereby.

2. The Carrier shall now assign the required janitor work in the office of the General Foreman in the Passenger Car Shop and in the office of the General Foreman in the Forge Shop to employees covered by the Clerks' Agreement in Seniority District No. 58.

3. The Carrier shall now be required to compensate Employee Johanna R. Vilaveck for eight (8) hours at the pro rata rate applicable to janitress positions in the Car Department, Milwaukee Shops, Wisconsin, for each day subsequent to December 19, 1956 that the violation continues.

EMPLOYEES' STATEMENT OF FACTS: There are a number of offices located at various points within the shops at the Milwaukee Shops, Milwaukee, Wisconsin. Clerical and supervisory forces occupy these offices. One such office is located in the Forge Shop and another in the Passenger Shop. The office in the Forge Shop is occupied by the General Foreman, his clerical help and by Assistant Foremen. The office in the Passenger Shop is occupied by the General Foreman, his clerical help and Assistant Foremen.

The janitor work in the General Foreman's office in the Forge Shop is being performed by Verona Trader, who is an employee not covered by the Clerks' Rules Agreement.

The janitor work in the General Foreman's office in the Passenger Shop is being performed by Marie VanLinden, who is an employee not covered by the Clerks' Rules Agreement.

Employee Johanna R. Vilaveck is a furloughed janitress with a seniority date of May 13, 1949 on Car Department Seniority Roster #58.

time or in any manner agree to place "work" within the scope and any assertion to the contrary by the employees is not correct and is rejected by the Carrier.

Numerous Board Awards have held it is the function of your Honorable Board to render awards based on existing rules and agreements and that it is not the function of your Board to render awards having the effect of writing new rules or adding language to existing rules.

The third paragraph of Rule 1 (e) refers only to positions and does not include or refer to work and the rule cannot be so interpreted and applied as though it did refer to and include "work".

It is the Carrier's position that the work of cleaning the General Foreman's Office in the Forge Shop and the General Foreman's Office in the Passenger Shop at Milwaukee, Wisconsin is work which has not at any time or by any means been placed within the scope of the Clerks' Agreement, that it is work which has been performed by shop laborers for many years, that it is work included within the scope of the Firemen & Oilers Agreement, that it is work which has never been performed by employees within the scope of the Clerks' Agreement and that there can be no basis for the claim and we respectfully request a denial award.

All data contained herein has been presented to the employees.

(Exhibits not reproduced.)

OPINION OF BOARD: At the Carrier's shops at Milwaukee, Wisconsin on the dates in issue, one shop laborer, covered by the Fireman and Oilers' Agreement, devoted about 45 minutes each day to the cleaning of the General Foreman's Office in the Forge Shop and another shop laborer spent approximately 30 minutes each day cleaning the General Foreman's Office in the Passenger Shop. At other times during the day, these laborers performed various other shop laborer work. Only laborers had performed the cleaning work involved since before 1935.

The Employees contend that this work is janitor or janitress work. As such, they claim that the work is included within the scope rule of the Clerks' Agreement.

The principal contention of the Carrier is that this is cleaning work, not janitors' work, and as such does not fall exclusively within the Clerks' Agreement.

Two question raised by the contentions of the parties are (1) whether, in fact, the work involved was janitor work as contemplated in the Scope Rule, and (2) if so, whether the Clerks have the exclusive right to this work under their agreement.

The Scope Rule in issue provides:

"Rule 1 — Scope

(a) These rules shall govern the hours of service and working conditions of the following class of employees, subject to exceptions noted below:

* * * * *

Group 2 * * *

Janitors and Janitresses

* * * * *

(e) * * * Positions within the scope of this agreement belong to the employees covered thereby and nothing in this agreement shall be construed to permit the removal of positions from the application of these rules, except in the manner provided in Rule 57."

Since the Scope Rule does not delineate what work is considered to be janitors' or janitresses' work it must be determined from the circumstances in which the work is performed.

As noted, one laborer cleaned one office in 45 minutes and another laborer cleaned another office in 30 minutes, each day. During the rest of the day other laborer work was performed. Taking the *Employees dictionary* definition of a janitor as "1. A doorkeeper; porter. 2. One having care of a building, offices etc." it does not seem that the laborers fit this description in the dispute before us. In the absence of a job description in the rules, the ordinary, common place meaning should be given to the term "janitor". In this context, it makes sense that one would fit the description of a janitor if he spent all, or most, of his time caring for a building or office. Such is not the case here. We conclude, therefore, that the work involved is not janitors' work within the meaning of the Agreement.

This conclusion is supported by the long practice on the property to regard the personnel involved as laborers whose work included cleaning offices during a minor portion of their time on duty. Before work is transferred from one craft to another something more is required from the Clerks than a general claim that work which includes cleaning must be considered janitors' work.

Having determined that under the circumstances of this case the work involved was not janitors' work, as contemplated in the Scope Rule, it is not necessary to determine whether the Clerks have an exclusive right to all janitor work.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and 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 Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 3rd day of August 1962.