

Award No. 13333

Docket No. CL-13435

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John H. Dorsey, Referee

PARTIES TO DISPUTE:

**THE UNITED STEELWORKERS OF AMERICA,
LOCAL UNION No. 3263**

UNION RAILROAD COMPANY

STATEMENT OF CLAIM: The claim in this case is based, first, on the conduct of management combining the yard clerk duties at "C" Yard with the weighmaster occupation at No. 3 Scales; second, the performance of bargaining unit work by members of supervision; and, third, the refusal of the carrier to submit this dispute to a Special Board of Adjustment for adjudication.

Prior to February 1, 1961, the first turn, or the 8:00 A. M. to 4:00 P. M. turn, the carrier combined the work of the yard clerk at "C" Yard, Clairton, Pennsylvania, with the work of the weighmaster at No. 3 Scales. The claim as filed with the carrier is quoted as follows:

"Please allow the first available extra man at the time, eight (8) hours at straight time for Feb. 1st, 1961 (8 A. M. to 4 P. M. turn). On the above-mentioned date Mr. Whitehead (Road Foreman of Engines) reported trains in and out of C Yard, Clairton. He gave yarding tracks of inbound trains also the time in. He also gave the time the trains departed from C Yard and gave consists of their train and the tracks they picked up train from. This work was done by the yard clerk that was on duty at C Yard before the C Yard clerk job was annulled."

EMPLOYEES' STATEMENT OF FACTS: The yard clerk occupation at "C" Yard has been in existence for approximately fifty (50) years.

The duties of yard clerk at "C" Yard, inter alia, are to report trains in and out of "C" Yard, transmit orders to conductors and engineers at "C" Yard and "E" Yard, make reports by telephone and in writing, make and mark up switching lists, check tracks, make track lists, and many other miscellaneous duties.

Late in 1960, management of the carrier informed the organization that it was of the opinion that the volume of operations at "C" Yard had declined and that for reasons of economy it, the carrier, desired to combine the jobs of yard clerk at "C" Yard and weighmaster at No. 3 Scales.

OPINION OF BOARD: The claim filed with Carrier and processed in the usual manner on the property is quoted in the second paragraph of "Statement of Claim", above. All other averments in the "Statement" are not properly before us. Therefore, our consideration of the Claim will and must be confined to the Claim as filed and processed on the property.

Carrier admits that Road Foreman of Engines, Whitehead, acted as set forth in the claim in the course of observing and reporting upon the performance of a Main Line Crew. The uncontroverted evidence is that such acts have customarily been performed on the property by Road Foremen of Engines, and have not been exclusively performed by employees covered by the Agreement before us.

It is well established that where the Scope Rule of an Agreement is general in nature, such as here, employees claiming an exclusive right to the work have the burden of proving that the craft or class involved have usually and customarily exclusively performed the work on the property. Petitioner herein has failed to satisfy the burden. We will deny the claim.

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 Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 25th day of February 1965.