



Award No. 16515
Docket No. CL-16976

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Bill Heskett, Referee

PARTIES TO DISPUTE:

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

THE CENTRAL RAILROAD COMPANY OF NEW JERSEY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6270) that:

(a) Carrier is violating 1(c), 1(g), 44(b) and related rules of the Clerks' Agreement at Somerville, New Jersey piggyback track, when they allow non-scope Chauffeurs to load and unload trailers to and from railroad flat cars, and

(b) Carrier shall be required to compensate proper claimant a day's pay for April 1, 1966 and each subsequent day that non-scope Chauffeurs are allowed to load and unload trailers to and from railroad flat cars, rate of pay to be based on the going rate of scope Employees doing similar loading and unloading at Jersey City, New Jersey and Elizabethport piggyback tracks, joint check of Carrier's records to be made to determine proper claimant.

EMPLOYEES' STATEMENT OF FACTS: On September 15, 1964 the Central Railroad Company of New Jersey opened piggyback facilities at Somerville, New Jersey. These facilities were set up to operate as follows: The over-the-road trucker to deliver the trailers from the shipper and drop them on railroad property and in the case of the over-the-road trucker making pick-ups of trailer for delivery to consignee, the trailer would be picked up on railroad property. The over-the-road trucking being performed by another non-railroad union and not part of this dispute.

The railroad contracted with Moore's Trucking Company to pick up trailers parked on railroad property and load same onto a railroad flat car for rail transportation to destination city, and to unload trailers from railroad flat cars, parking same on railroad property for later pick up by the over-the-road trucker.

The Organization made attempts from September 1964 to have the Carrier establish scope positions to perform the work of grounding and ramping piggyback trailers at Somerville, New Jersey and when finally it became evident that the Carrier was not negotiating and bargaining in good faith, the Organization filed claim on the local level under date of May 15, 1966 (Exhibits H-1 and H-2) which was subsequently denied under date of July 12, 1966 (Exhibit H-3).

The claim was next appealed on the Division level under date of August 8, 1966 to Mr. G. C. Wilms (Exhibit J-1 and H-2). Mr. Wilms denied same under date of September 8, 1966 (Exhibit J-2).

By letter of September 22, 1966, the General Chairman appealed the decision of Mr. Wilms to Mr. J. A. Craddock, Vice President and General Manager, the highest ranking officer on the property authorized to handle these matters (Exhibits K-1 and H-2). Mr. Craddock subsequently denied this claim under date of November 15, 1966 (Exhibit K-2).

By letter of December 29, 1966 the General Chairman wrote to Mr. Craddock taking exception to his denial bringing out additional information and made request for further consideration in this matter (Exhibit L-1). As this letter remained unanswered an urger was sent to Mr. Craddock under date of January 23, 1967 (Exhibit L-2) which letter also remains unanswered.

All efforts to dispose of this claim on the property have failed. This leaves no other recourse but to appeal to your Honorable Board for a just determination.

(Exhibits not reproduced.)

CARRIER'S STATEMENT OF FACTS: On or about September 1, 1964 Carrier inaugurated trailer-on-flat-cars (piggyback) service at Somerville, New Jersey. Insofar as this Carrier is concerned, the centralized point of piggyback operation is at Jersey City and Elizabethport, New Jersey, respectively approximately 35 and 25 miles from Somerville. Claim was presented and progressed by the Clerks' Brotherhood in behalf of unnamed claimant for one day's pay April 1, 1966 and subsequent dates in connection with loading and unloading trailers on flat cars which work is contracted to Moore Trucking Company, which claims the Carrier denied.

Because of the limited amount of piggyback traffic handled at Somerville during the twenty-four hour period, it does not justify the services of full time employes, plus the fact the Carrier would have to acquire a tractor if we were to have employes represented by the Clerks' Organization perform the work in question. Furthermore, it is more economical for the Carrier to have the work in question performed by the outside contractor over the twenty-four hour period, as required, than by claimants on a full time basis.

Agreement between this Carrier and the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employes, effective December 15, 1952 is on file with the Board and by reference is made a part of this submission.

OPINION OF BOARD: In order to make out a prima facie case, the Organization must show that the work, loading and unloading of trailers on

flat cars for Carrier's TOFC (piggyback) service at Somerville, was such that it would belong to the Craft exclusively under the Scope Rule or by tradition and practice. Here, the Scope Rule is general and merely lists the classifications covered and the record discloses that there is no evidence of tradition and practice, except for the other two points at which Carrier offers such service the Craft does do said work by virtue of a special agreement. The special agreement does not establish tradition and practice nor can its terms be expanded to include Somerville. Further, the fact that the parties had previously conferred regarding the work at this point and Carrier had contended the work was insufficient to require the service of a full time employee, does nothing to prove exclusivity.

The Organization has failed to make out a prima facie case in this docket. See Awards 14064 (Rohman), 14075, (Stark), 14157 (Hall), 14327, 14593 (Dorsey), 14604, 14605 (Dolnick), 14695, 15596 (Ives), 15728 (McGovern) and also see Awards 15890, 15893, 15936, 15939, and 15997 by this referee.

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

That the parties waived oral hearing;

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 by the Carrier.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 26th day of July 1968.