

Award No. 16843
Docket No. CL-17054

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John H. Dorsey, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES
CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6295) that:

(1) Carrier has ignored and violated the provisions of the Clerks' Agreement as hereinafter stipulated when it arbitrarily contracted out work of the Warehouse Foreman's position, LaCrosse, Wisconsin, to an outside concern, thereby denying H. G. Bautsch, occupant of the said warehouse position coming within and under the craft or class of clerical, office, station and storehouse employees, certain rights they are entitled to under the said Agreement;

(2) The Carrier shall now be required to return the work thus transferred to an outside contractor and restore it to employees occupying positions coming under the Scope of the said Agreement; and

(3) H. G. Bautsch be compensated for a call (a minimum of 3 hours at straight time rate, \$22.04 per day) for Saturday, April 1, 1966, with claims continuing as hereinafter stipulated and for subsequent days that Carrier permits outside individuals to perform work of blocking, bracing and tying down and/or untying, loosening and unblocking of "piggy back" trailers on flat cars (T. O. F. C.) at its LaCrosse Warehouse transfer dock and/or Team Track.

EMPLOYEES' STATEMENT OF FACTS:

CONTINUING CLAIM DATES

April 4, 5, 6, 7, 9, 11, 13, 14, 15, 18, 21, 22, 25, 26, 27, 28, 29, 1966.

May 2, 3, 5, 6, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, 23, 24, 25, 27, 28-31, 1966.

June 1, 2, 3, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, 20, 21, 26, 1966.

OPINION OF BOARD: Effective April 1, 1966, Carrier contracted with Soller Truck Lines, Inc. to load and unload trailers on flat cars, including tying down and untying, blocking and bracing the trailers and any and all work associated therewith, at its La Crosse TOFC Facility. Prior to that date Burlington Truck Lines, a wholly owned subsidiary of Carrier, handled the "piggy-back" business at La Crosse and Claimant, warehouse foreman at La Crosse had performed some of the work of tying down and untying, blocking and bracing the trailers.

It is Clerks' contention that: (1) the above detailed work of Claimant was performed exclusively by him at La Crosse prior to April 1, 1966; and (2) the assignment of the work to Soller violated the Scope Rule of the Schedule Agreement and Section 2 (d) of Implementing Agreement No. 3, dated December 17, 1965, made pursuant to Mediation Agreement A-7128.

Carrier asserts that: (1) the Scope Rule is general in nature; (2) Clerks have the burden of proof that the work herein involved had been exclusively, historically and customarily, performed system-wide by employees covered by Clerks' Agreement—it has failed to do so; and (3) the Implementing Agreement is concerned only with LCL freight; not "piggy-back" or TOFC freight.

We find: (1) the Scope Rule is general in nature; and (2) Clerks failed to prove that system-wide the work involved in this dispute had been performed prior to April 1, 1966, exclusively by clerks. Further, we find the cited Implementing Agreement is not applicable. Therefore, for reasons stated in Award 16550, we will deny the Claim. See, also, Award Nos. 14695, 16470, 16544 and 16515.

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 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 19th day of December 1968.

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