

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19249
Docket Number MW-18308

Clement P. Cull, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(Delaware and Hudson Railway Company

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

(1) The Carrier violated the agreement when, on or about May 11, 1967, it assigned employees represented by the Brotherhood of Railway and Steamship Clerks to perform work of maintaining the yard office at Binghamton and certain fixtures therein, which work had theretofore been performed by employees represented by the Brotherhood of Maintenance of Way Employees. (System Case No. 9.68 MW)

(2) Trackmen Downton O. Swartz, Elmer E. Lee, James Schemerhorn, Herbert Beman, Frank Sullivan and Louis Tuttle, or their successors, be allowed a wage adjustment to provide them with pay at their respective rates for the same number of hours on an equal basis as they would have consumed in maintaining the yard office at Binghamton and certain fixtures therein subsequent to May 11, 1967.

(3) The work of maintaining the yard office at Binghamton and certain fixtures therein be reassigned to trackmen normally headquartered at Binghamton.

OPINION OF BOARD: Prior to May 11, 1972, the duties relating to janitorial service at Carrier's Binghamton Yard Office were assigned to and performed by trackmen of Carrier's Track Department. Effective with May 11, 1972, the aforesaid work was assigned to clerical employees at that location.

Carrier contends that where, as here, the Scope Rule involved is general in nature and does not specifically refer to the work in dispute, Petitioner has the burden of proving that the work has been reserved exclusively for the Employees herein.

The record in this case is barren of such evidence. Accordingly, we shall dismiss the claim for lack of proof.

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

Claim should be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: E. A. Killen
Executive Secretary

Dated at Chicago, Illinois, this 31st day of May 1972.