

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20994
Docket Number CL-20884

Irwin M. Lieberman, Referee

PARTIES TO DISPUTE:

(Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers
(Express and Station Employees
(
(Norfolk and Western Railway Company

STATEMENT OF CLAIM: Claim of System Board of Adjustment No. 218 (GL-7608)
on the Lake Region, Norfolk and Western Railway Company,
that:

1. Carrier violated and continues to violate the Agreement between the parties when on May 3, 1973, both the Engine House Clerk and the Car Department Clerk positions were abolished, and one job established combining those positions, and the Roundhouse Foremen were ordered to perform clerical duties formerly assigned to the Engine House Clerk position.

2. Carrier shall pay Clerk E. C. Hoffman three (3) hours punitive rate for Second Trick, plus three (3) hours punitive rate for Third Trick, commencing May 4, 1973, and for each day thereafter that this violation continues.

OPINION OF BOARD: The issue in this case is whether a Roundhouse Foreman improperly performed certain clerical duties formerly assigned to a clerical position covered by the applicable Agreement.

This dispute involves the Scope Rule of the Agreement. The Rule in the Agreement before us is general in nature and does not specify any work. In order to prevail, Petitioner has the burden of proving, by a preponderance of evidence, exclusive system-wide practice in support of its position. The only work identified by the Organization in this dispute was the filing of Form MP-60 by the Roundhouse Foreman; Carrier contends that this work, which took no more than five minutes per shift, was not the exclusive work of clerks. Petitioner has failed to provide any evidence that the work in question was performed system-wide, exclusively, historically and customarily by employees covered by the Agreement (see Awards 16787 and 14327 among a host of others). In view of Petitioner's failure to meet its burden of proof, the Claim must be denied.

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;

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That the Carrier and the Employes involved in this dispute are respectively Carrier and Employes 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.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Paulsen
Executive Secretary

Dated at Chicago, Illinois, this 12th day of March 1976.