

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21485
Docket Number CL-21493

Robert M. O'Brien, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station Employees
(Boston and Maine Corporation, Debtor

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-8099) that:

1. Carrier violated the Agreement when it assigned Messenger's duties at East Deerfield, Mass., to Al's Cab of Greenfield, Mass. and Howard Johnson Motor Lodge.

2. William G. Gardner, employee holding Messenger's Seniority be allowed one (1) day's pay, October 15, 1975 and everyday thereafter until same is corrected, due to work in question contracted to an outside taxi cab company. Rate of pay \$38.08 per day.

OPINION OF BOARD: The claimant in this case was an unassigned or spare employe who was called on an "as needed" basis to perform extra services or to fill day-to-day vacancies on a regular messenger/janitor position at Carrier's East Deerfield, Massachusetts Terminal.

The claim as initiated and progressed to this Board alleges a violation of Rule 1(a) - Scope because of Carrier's use of a private taxi company to transport train and/or engine service crews into, out of and around the East Deerfield terminal.

The record in this case reveals that throughout Carrier's system, train and engine service crews are transported by several different means including but not limited to privately owned taxi cabs as well as by clerical employees assigned to messenger positions. Therefore, the exclusive right asserted by petitioner in this case must arise from either the Rules Agreement or the custom, practice and tradition of performance on Carrier's system.

A review of the Agreement and the record indicates that the work here in dispute is not the exclusive right of petitioner. Accordingly, the claim will be denied. See Award Nos. 21339, 19789, 19193, and 12219 of this Division.

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.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 31st day of March 1977.

