

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21894
Docket Number CL-21611

George S. Roukis, 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 the System Committee of the Brotherhood
(GL-8088) that:

1. Carrier violated, and continues to violate, the Agreement between the parties when they arbitrarily removed clerical work from under the Clerks' Agreement and assigned it to the Supervisory Agent, an employee not covered by any agreement.

2. Carrier shall be required to pay Mr. R. R. Rockey four (4) hours punitive pay for December 6, 1974, and for each day (except Sunday) thereafter that this violation is allowed to continue.

OPINION OF BOARD: Claimant in this case was assigned to a position of Cashier at Carrier's freight station at Erie, PA. His assignment worked Monday through Friday with rest days of Saturday and Sunday. The claim before us asks for payment of four (4) hours at punitive rate "for each day (except Sunday)" beginning December 6, 1974, on the basis that Carrier allegedly "removed clerical work from under the Clerks' Agreement and assigned it to the Supervisory Agent, an employee not covered by the agreement."

After having carefully reviewed the entire record as presented to this Board, we are unable to determine with certainty the course being pursued by Petitioner.

It appears that the item of work which is the basis of dispute in this case is "demurrage and trailer report work." Petitioner contends, on the one hand, that this work was transferred to Erie, PA, from Wallace Junction PA, when the Agent-Operator at the latter location was abolished in May, 1974. On the other hand, they contend that Claimant has performed this work as part of his regular assignment "for years."

Petitioner argues that Carrier removed the work from the Clerks' Agreement and assigned it to the Supervisory Agent while at the same time arguing that Claimant performs this work "on his five work days each week."

Petitioner alleges that Rule 34 (Work on Unassigned Day Rule) was violated on Saturdays, yet offers no probative evidence to support that contention.

From the status of the record in this case, the conflicting arguments and contentions of Petitioner coupled with the absence of proof relative to what actually occurred, this Board has no recourse but to dismiss the claim.

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 dismissed.



NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 15th day of February 1978.