

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22150
Docket Number CL-22072

George S. Roukis, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station Employees
(
(Akron, Canton and Youngstown
(Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-8413) that:

1. Carrier violated the Agreement between the parties on November 27 and 28, 1976, when Trainmen were instructed to perform work formerly assigned exclusively to clerical employees.

2. Carrier shall now pay Mr. C. R. Lutz an additional day's pay for each day of the claim.

OPINION OF BOARD: On November 22, 1976, Manager's Notice No. 92 was promulgated which revised certain instructions and delineated train and engine service employees' responsibilities. The Notice also contained the following paragraph:

"Beginning November 23, 1976, duties of Yard Conductors will include the making of a straight list of cars being handled into yard from transfers and industries. All cars brought into yard are to be shown on this list."

Thereafter, when conductors complied with the instructions, a time claim was filed for an additional day's pay under the Clerks' Agreement on the basis that when the conductor was instructed to make a "straight list" of cars in his train, this was work subject to the Clerks' Agreement and its performance by conductors violated Rule 1(c) which states:

"Positions within the scope of this Agreement belong to the employees covered thereby and nothing in this Agreement shall be construed to permit the removal of positions and/or work from the application of these

"rules subject to such modifications and exceptions hereinafter set forth."

The Organization argues that the scope rule extant with this Carrier is a specific scope rule reserving work covered thereby exclusively to employees subject to the scope of the Clerks' Agreement. The Carrier, correlatively, counters that for the Organization to prevail it must demonstrate that the disputed work is performed systemwide exclusively, historically, or customarily by clerks.

As to the application of the scope rule, we think the Organization's arguments are more persuasive. Numerous times this Board has held this rule to be a specific, not general, scope rule and only a showing that work, once placed thereunder, has been removed in violation thereof is required. However, there is no showing that the work in dispute was ever performed by clerks, as the record discloses that, although required to list all cars handled in their trains into the yard prior to the issuance of Bulletin No. 92, only subsequent thereto were conductors required to list the cars in train order as well - the only apparent change resulting from Bulletin No. 92.

The Organization has not established in the first instance that this work had been placed under the scope of the agreement and thus could not be removed therefrom in violation of Rule 1(c) supra.

We will deny this 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

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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 July 1978.