

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22534
Docket Number CL-22475

Kay McMurray, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station Employes
(
(Chicago, Milwaukee, St. Paul and Pacific
(Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-8529) that:

1) Carrier violated the Clerks' Rules Agreement at Janesville, Wisconsin when it required an employee outside the scope and application of the Agreement to perform clerical duties at the Chevrolet Plant.

2) Carrier shall now be required to compensate employee J. Frierdich a two (2) hour call at the time and one-half rate of Position No. 51050 for September 15, 1976 and each subsequent workday until the violation is corrected.

OPINION OF BOARD: The claimant, John Frierdich, at the time of this claim, September 15, 1976, was working as a Demurrage Clerk at Janesville, Wisconsin, with assigned hours from 6:00 a.m. to 3:00 p.m. At the end of his shift it is necessary to check the tracks adjacent to the Chevrolet Plant. The Carrier utilized the service of an on duty Yardmaster for this purpose. The Organization contends that such work is reserved to the claimant's position and that it is a violation of the Scope Rule to permit such work by a Yardmaster.

The employees contend that checking yard tracks is exclusively clerical work. They further contend that Yardmasters had not performed such work prior to the present claim. In support of this position four statements were submitted (including the claimant's and two employees' from another railroad). All state that to their knowledge, Yardmasters had not done such work prior to this claim at this location.

The Carrier presented evidence that the work had been done by different employees, including Yardmasters, in the past. A notarized statement by a Yardmaster working at Janesville reads in pertinent part:

"...it has always been the custom of the Yardmaster at this point in the furtherance of his duties to check yard tracks."

The record contains no challenge to the foregoing and is somewhat recognized in the employees' rebuttal by an admission that Yardmasters do check tracks.

It is the view of this Board that the Organization has not submitted evidence necessary to prove that the agreement was violated.

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:


Executive Secretary

Dated at Chicago, Illinois, this 28th day of September 1979.