

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22685

Docket Number CL-22455

Joseph A. Sickles, Referee

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

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-8520) that:

- 1) Carrier violated, and continues to violate the Clerks' Rules Agreement at Aberdeen, South Dakota, when it abolished Operator Position No. 72330 on July 30, 1976 at 4:00 p.m. in Seniority District No. 139, and unilaterally assigned the work normally attached thereto to an employee outside the scope and application of the Clerks' Agreement.
- 2) Carrier shall now be required to compensate employee D. E. Joneson an additional eight (8) hours at the pro rata rate of Position No. 72330 retroactive to August 2, 1976 and continuing thereafter for all subsequent work days of that position until the violation is corrected.

OPINION OF BOARD: Position 72330 was abolished at Aberdeen, South Dakota effective 4:00 p.m., July 30, 1976, and certain work associated with that position was transferred to the Assistant to the Superintendent.

The Employees assert that the Carrier has violated the Scope Rule of the agreement, among others, by arbitrarily assigning work "...normally done by operator...to an employee not covered under the scope and application of the Clerks' Rules Agreement."

The Carrier denies a violation, pointing out that the Scope Rule in question has been determined to be, on a number of occasions, general in nature, listing positions - but not work, and Carrier urges that the Employees have failed to show that the Scope Rule gives them exclusive rights to the performance of the claimed work.

Unquestionably, in this type of a case, the Employees have a burden of showing an exclusive system-wide performance of the work claimed in the dispute. Limiting our review to the matters which were raised and considered while the matter was under consideration on the property, (and thus properly before us) we find that the Carrier has maintained that the duties in question were performed by Supervisors of car utilization at various points on the property and that the operator of the abolished position, when performing certain duties, was merely assisting the Supervisor.

The Employees presented nothing to us on the property which would warrant our making a contrary finding, and we will dismiss the claim because of a failure of proof.

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 claim be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A.W. Paulos
Executive Secretary

Dated at Chicago, Illinois, this 14th day of December 1979.