

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22897
Docket Number CL-22745

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station Employees
(
(Seaboard Coast Line Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-8663)
that:

1. The Carrier violated the Agreement when it failed to call and allow Clerk M. J. Starling, West Jacksonville Yard, Jacksonville, Florida, to perform clerical duties while being performed by W. K. Martin, Terminal Trainmaster, on March 13, 1977.

2. The Carrier shall compensate Mr. Starling eight (8) hours at time and one-half for March 13, 1977.

OPINION OF BOARD: The Employees contend that on the claim date, when the Claimant was available (but not on duty) the Carrier allowed or permitted an Assistant Terminal Trainmaster to perform certain car checking duties.

The Carrier does not dispute that the Trainmaster made a list of cars, but it asserts that he did so as a track check for personal information and a line-up for a switch engine. Carrier denies that there is any evidence that the list was used for transferring cars, pulling way bills, or for any other purpose affecting clerical work.

Carrier concedes that there is an agreement violation when other than covered employees perform clerical work, and they urge that the record contains physical evidence to show an exact check by clerks of three tracks and a line-up on 11 others. We do not concur with the Organization's assertion that it makes no difference if certain work had already been performed by clerical employees.

The Carrier pointed out, during the handling on the property, that the list in question was not used for any clerical purpose, and further, that clerical forces performed appropriate work.

Resolutions of these types of disputes must relate to the actual facts surrounding the events. Here, while the matter was under review on the property, the Employees did not deny the assertions made by the Carrier and, accordingly, for the purpose of this case, we must accept them as controlling. The Employees have the burden of showing a violation and, although we limit our findings to this particular record, we are unable to find that the Employees have established their claim by an evidentiary showing.

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 will be dismissed for failure of proof.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Paulson
Executive Secretary

Dated at Chicago, Illinois, this 18th day of June 1980.