

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23320
Docket Number CL-23298

John B. LaRocco, Referee

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

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-8951)
that:

1) Carrier violated, and continues to violate, the Clerks' Rules Agreement at Aberdeen, South Dakota when it arbitrarily and unilaterally assigned work normally performed by Yard Clerk Position Nos. 73530 and 73560, including the Relief Yard Clerk position covering the rest days of these two positions, to employees not covered under the scope and application of the Agreement at 12:01 a.m. May 15, 1978.

2) Carrier shall now be required to compensate the occupants of the positions listed in Item (1) above, and/or their successors an additional eight (8) hours of their applicable assigned positions commencing May 15, 1978 and continuing until the violation is corrected; reparation as to occupants and rates of pay to be determined by joint check of Carrier's records.

OPINION OF BOARD: The organization seeks eight hours pay per day for two Yard Clerk positions (Nos. 73530 and 73560) at Aberdeen, South Dakota for the period from May 15, 1978 to the present because of the Carrier's alleged unilateral removal of work normally performed by the Clerks holding those positions. The facts underlying the organization's claim are uncontested. Prior to May 15, 1978, Clerks at Aberdeen exclusively engaged in the bleeding of trains. Effective May 15, 1978, the Carrier unilaterally assigned the bleeding train tasks to employees not covered by the Clerks' Agreement. Various employees including carmen, switchmen and the yardmaster are responsible for bleeding trains at other points on the Carrier's system. Apparently, Aberdeen was the only location on the system where Clerks had the exclusive duty to bleed trains.

The issues are whether the Carrier violated the applicable Agreement when it transferred the work of bleeding trains to employees other than Clerks and, if so, what is the appropriate remedy? On the first issue, the organization contends the Carrier breached subsection (f) of Rule 1 (Scope) of the applicable Agreement which prohibits the Carrier from removing positions from the coverage of the Clerks' Agreement unless changed by the method set forth in the Railway Labor Act (Rule 57).

According to the organization, since the Clerks at Aberdeen have historically and exclusively performed the work of bleeding trains that work is protected under the terms of Rule 1(f). The Carrier argues that Rule 1(f) is a general rule concerning positions rather than specific work. According to the Carrier, to claim exclusivity of work under a general scope rule, the Employees are required to show that Clerks across the Carrier's system exclusively perform the work.

The use of the word "position" as used in Rule 1(f) is not synonymous with "work" and, thus, Rule 1 is a general rule. Third Division Award No. 19255 (Cull). Since the rule is general, the organization must show more than an historical pattern that employees at a single location exclusively performed the disputed work. Third Division Award No. 22800 (Larney). In a recent decision on a claim arising from Aberdeen on this Carrier, we ruled that the Employees, under the scope rule, have the "... burden of showing an exclusive system-wide performance of the work claimed in the dispute." Third Division Award No. 22685 (Sickles). The record discloses no rebuttal from the organization to the Carrier's exhibits attesting that employees other than Clerks bleed trains at other points along the Carrier's system. Because the Employees have failed to demonstrate that the Clerks exclusively perform the task of bleeding trains over the Carrier's system, the Carrier did not violate the Agreement when it reassigned the work to other employees.

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: _____

A. W. Parker
Executive Secretary

Dated at Chicago, Illinois, this 19th day of June 1981.

