

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24282
Docket Number CL-24140

Herbert L. Marx, Jr., Referee

PARTIES TO DISPUTE: { Brotherhood of Railway, Airline and Steamship Clerks,
 { Freight Handlers, Express and Station Employees
 { Port Terminal Railroad Association

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-9505) that:

(1) The Port Terminal Railroad Association violated the Rules of the current Agreement between the parties including, but not limited to Rule 1 (SCOPE) when on July 7, 1980, it allowed, permitted, and/or required Supervisor of Transportation G. R. Dehart to perform clerical duties of receiving and preparing spot car order from All States Steel Company at Houston, Texas.

(2) The Association shall compensate Clerk H. R. Hudman, Houston, Texas for eight (8) hours' pay at the time and one-half rate of the Chief Clerk's Position for July 7, 1980, for this violation.

* OPINION OF BOARD: The Association is accused of violating the Organization's scope rule by having its Supervisor of Transportation "perform clerical duties of receiving and preparing spot car order". The Organization states this work is identical with "taking and making switch orders on loaded and empty cars from customers" and argues -- without contradiction by the Association -- that this is work "traditionally performed by clerical employees" represented by the Organization.

The Board perceives no genuine dispute as to the scope of work protected by Rules 1 and 2. The narrow question centers on the precise nature of the function performed by the Supervisor of Transportation. The Organization's evidence, not disputed by the Association, is a memo handwritten by the Supervisor which reads, as best as can be determined:

"All Conc'd

All States Steel --

Still needs following car ... SP340511 EG ..."

Added to this note is evidence of the subsequent action taken by appropriate employees to furnish two cars in lieu of the requested car. This note is the sole basis of the claim.

Analysis of the note leads to the conclusion that this was not an original order to "spot" a car, which work would normally be performed by a clerical employee. The use of the word "Still" indicates that it is a written reminder to "all concerned" that a previous order had not yet been fulfilled.

On this basis, the Organization has failed to show that the Supervisor had, in fact, taken over the assigned work of a clerk. Rather, all that is demonstrated is that he was exercising his supervisory function as a reminder concerning an incomplete assignment.

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 Employee involved in this dispute are respectively Carrier and Employee 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: Acting Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 31st day of March 1983.

