

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25321  
Docket Number CL-24956

I. M. Lieberman, Referee

(Brotherhood of Railway, Airline and Steamship Clerks  
( Freight Handlers, Express and Station Employees  
PARTIES TO DISPUTE: (  
(Elgin, Joliet and Eastern Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood  
(GL-9745) that:

"(1) Carrier violated the effective Clerks' Agreement when, commencing on our(sic) about March 8, 1982, it required and/or permitted employees not covered thereby to perform work reserved to fully covered employees;

(2) Carrier shall now compensate Clerk R. J. McDermott an additional three hours' pay at the pro rata rate of Position SK-3, commencing on March 8, 1982, and continuing for each and every day thereafter that a like violation occurs."

OPINION OF BOARD: On May 23, 1979, Carrier instituted a new and improved inventory control program. The employees in the Maintenance of Way truck garages at Gary (as well as at the truck garage in Joliet) had maintained their own inventory of parts and tools since 1960, and at least in part, since 1939. The truck garages in 1979, were the last Sub-Departments to be included in the new system, which had been initiated in 1968.

The parties have presented copious and varied arguments in support of their respective positions in this matter, and a third party, the Brotherhood of Maintenance of Way Employees has also submitted a position (submission) in this dispute. First, it must be noted that the Carrier has insisted from the outset that this dispute embraces a series of Claims, four in number. The record is clear, however, that three of the Claims have been withdrawn by Organization (covering different factual circumstances from that herein). Carrier has no right to the position that those Claims are at issue herein: they are not.

A careful study of the documents submitted by both parties, as well as the arguments and early handling on the property, indicates considerable confusion as to the heart of the dispute. Perusal of the third party documents, the Carrier's rebuttal in particular, and Organization's rebuttal and brief, convince this Board that there may in fact be no real dispute. All three parties appear to agree that the strictly clerical functions relative to the completion of the two requisition documents are properly handled in part by Clerks and in part by mechanics in the garage.

In addition, there does not appear to be any basis for the timing of the Claim herein. There is no evidence to show that any change occurred in the manner of dealing with the inventory Clerical functions in March of 1982, relative to the installation of the system in 1979. Thus, the Claim herein appears to be barred by Rule 28 1/2.

In view of the lack of clarity and specificity in the Claim and the lack of conformity to the time limits provided by Rule 28 1/2, the Claim must be dismissed.

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; and

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and


Claim is barred.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois this 15th day of March 1985.