

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25409  
Docket Number CL-25268

George S. Roukis, 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-9814) that:

1. Carrier violated the effective Clerks' Agreement when, on or about August 19, 1982, the Carrier removed work from the Scope of that Agreement and assigned it to be performed by foremen and others in the Car Department at Gary, Indiana.

2. Carrier shall now compensate Clerk Stanley Galka three hours' pay at the time and one-half rate of Position SK-14, which is in addition to his other earnings for such dates, commencing August 19, 1982, and continuing for each and every day thereafter that a like violation exists.

OPINION OF BOARD: Organization contends that Carrier improperly removed work that was protected by the Agreement Scope Rule when on or about August 18, 1982, employees of the Car Department were required to perform work that was historically performed by Clerks. It asserts that Carrier removed virtually all storehouse duties associated with the issuance and inventory control of Car Department material and assigned it to non-Agreement covered employees. It avers that Carrier's actions pointedly violated Rule 1(A) which manifestly precludes the removal of positions or work from Agreement coverage. Rule 1(A) is referenced as follows:

"Rule 1 - Scope and Work of Employees Affected

"(A) These rules shall govern the hours of service and working conditions of all employees engaged in the work of the craft or class of clerical, office, station and storehouse employees. Positions or work coming within the Scope of this agreement belong to the employees covered thereby and nothing in this agreement shall be construed to permit the removal of positions or work from the application of these rules, nor shall any officer or employee not covered by this agreement be permitted to perform any clerical, office, station or storehouse work which is not incident to his regular duties."

Organization asserts that the making and keeping of storehouse records as well as the receipt and issuance of stores material is singularly protected work; and further maintains that the few instances cited by Carrier as supporting evidence of past practices are settled isolated unrelated incidents without precedent effect. It argues that the disputed work is not "de minimus" in nature and incidental to the work of the Car Department employees, but work of a substantial clerical nature.

Carrier, in essence, argues that the contested clerical work was incidental to the main duties of the Car Department employees. It asserts that the dispensing of material and/or filling out of records incidental to the using department had been regularly performed by employees not covered under the Scope of the BRAC Agreement; and observes that such work is recognized under the Scope Rule as a permissible exception. It argues that it has shown by concrete documentary evidence that non-covered employees assigned to Car Repair Tracks, Locomotive Shops, Roundhouses, Track Forces, Truck Garages Plant Maintenance and Building, etc., recorded material used by their particular identifiable departments, and thus, demonstrated the direct incidental linkage between the performed clerical functions and the employees' regular duties. It avers that prior to August, 1982, most of the items shown as issued to the Car Department in bulk quantities were removed from the computerized running inventory control system maintained by clerical employees. It asserts that because this method of inventory control was patently inadequate, it was necessary to place all Car Department material into the computerized running inventory control system until such items were actually used. It argues that the Car Department could now ascertain what type of material was on hand without requiring a physical inventory of the items stockpiled in the RIP Track area, and pilfering of materials could be more efficiently detected. It notes that beginning in August, 1982, an employee in the Car Department would make a record of each item used on Form 20-007 S (Stock Material Requisition) which was then forwarded to a Stores Department clerk for verification and subsequent entry into the computerized running inventory system by another clerk.

In reviewing this case, the Board concurs with Carrier's position. The basic issue herein is whether the disputed work was incidental to the Car Department employees regularly assigned duties or work of a rather significant nature that was improperly removed from the clerical employees. In the absence of clear Agreement language that specifically reserves identifiable work to the petitioning Organization or Claimant, the initiating party is obligated to show by reference to systemwide past practice that the work was historically performed by covered Agreement employees. Organization has argued that Carrier now requires employees of the Car Department to issue material and fill out stock material requisitions including the portion previously performed by the issuing clerk. Carrier averred that material dispensed by the using Department and the correlative clerical completion of incidentally related records was traditionally performed by non-Agreement employees. In fact, on this point, Carrier submitted evidence showing that non-Agreement employees performed such work incidental to their duties. During the course of the claim's on situs progression, Organization did not refute Carrier's nonexclusivity assertions nor prove that the work was not incidental. Under Rule 1(a), incidental clerical work is permitted and Carrier's demonstration of past practice is persuasive. While a change in work methodology occurred in August, 1982, it was not inconsistent with the incidental work performed by other non-Agreement 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 Employes involved in this dispute are respectively Carrier and Employes 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

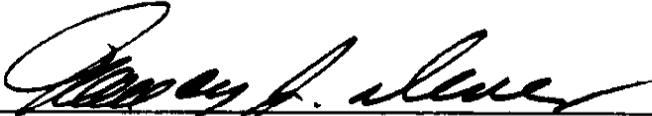
That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Dover - Executive Secretary

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