

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26317
Docket Number CL-26027

Martin F. Scheinman, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees
(
(Norfolk and Western Railway Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood
(GL-9932) that:

1. On December 27, 1982, Carrier violated the terms of the Master Agreement, particularly, but not limited to, Rule 1 (Scope) as amended, when it required an employee of another craft to clean windows in five (5) cabooses at Elmore, West Virginia.

2. Carrier shall now be required to compensate Cab Supplyman J. R. Tilley one (1) day's pay at the time and one-half rate of pay for December 27, 1982, account cleaning of caboose windows at Elmore, West Virginia is customarily and regularly performed by the clerical position of Cab Supplyman."

OPINION OF BOARD: The relevant facts of this Claim are not in dispute. On December 27, 1982, Carrier assigned an employee of another craft to clean windows in five cabooses at its Shop in Elmore, West Virginia. As a result, the Organization filed this Claim, contending that Claimant should receive one day's pay at the punitive rate.

Carrier timely rejected the Claim. Thereafter, it was handled in the usual manner on the property. It is now before this Board for adjudication.

The Organization maintains that Carrier's actions violated the Scope Rule of the Agreement. It insists that this work has been traditionally and customarily performed by clerical employees at Elmore for the last 25 years.

In addition, the Organization insists that the Scope Rule is not general in nature. Thus, it submits that it need not establish "exclusivity" of the work in question. Therefore, it asks that the Claim be sustained as presented.

Carrier, on the other hand, maintains that it properly "shopped" the five cabooses. It insists the cleaning of windows is not work exclusively performed by members of the complaining craft. Therefore, Carrier argues, the Claim should be rejected on this basis alone.

The key issue in this dispute centers on whether the Organization is required to establish exclusivity to the work in dispute. After careful review of the record, the Board is convinced that for the Organization to prevail, such exclusivity must be demonstrated. Rule 1 states in part:

"Positions or work within the scope of this Rule 1 belong to the employees covered thereby...."

In interpreting this provision, this Board held that the inclusions of the term "positions and/or work" cannot mean more than was previously meant prior to inauguration of the specific Scope Rule. See Third Division Award No. 22894.

Here, cleaning windows was performed by both Cab Supplymen as well as Motive Power Department Laborers. As such, the Organization has not demonstrated that its members have traditionally performed this work to the exclusion of all others. Accordingly, and for these reasons, the Claim must fail.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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: 
Nancy J. Bower - Executive Secretary

Dated at Chicago, Illinois, this 13th day of May 1987.