

The Third Division consisted of the regular members and in addition Referee Eckehard Muessig when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International Union  
(  
(The Atchison, Topeka and Santa Fe Railway Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood  
(GL-10328) that:

CLAIM NO. 1:

1. Carrier daily violates the Agreement at San Diego, California, when it requires or permits Transport Equipment and Service Company of California employes to perform work covered by the Clerks' Agreement, including the maintaining of a PIGLIST of damaged trailers to be repaired, and the calling of Talin Tire Company to come to the Santa Fe San Diego TOFC Yard to repair and replace tires on piggyback trailers, and

2. Carrier shall now reassign employes under the Clerks' Agreement to again perform these duties, and

3. Carrier shall now pay the senior off duty regularly assigned employe from the list below and/or their successor or successors, at the Assistant Cashier's rate of pay of \$104.42 per day, plus all subsequent wage increases, for eight (8) hours each day Monday through Friday, beginning December 1, 1987, and continuing each day thereafter until the violations are terminated:

Name	Seniority	Title	Position No.
J. L. Dolan	09/06/50	Asst. Cashier	6279
R. L. Townsend	04/29/52	Hd. Claim Clerk	6214
C. A. Pickens	02/02/54	Car Clerk	6210
A. K. Beckstrand	04/19/54	Relief Clerk	9430
F. H. Finn	08/02/57	Trucker	6204
A. R. Harvey	09/09/57	Car Clerk	6213

CASE NO. 2:

1. Carrier daily violates the Agreement at San Bernardino, California, when it requires or permits Transport Equipment and Service Company of California employes to perform work covered by the Clerks' Agreement, including the maintaining of a PIGLIST of damaged trailers to be repaired, Vin and Vout Reports and running copy of rail tracks to see what they have to down ramp and load, and

2. Carrier shall now reassign employes under the Clerks' Agreement to perform these duties, and

3. Carrier shall now pay the senior off duty regularly assigned employee and/or their successor or successors the rate of pay of TOFC Clerk beginning November 16, 1987, and continuing each day thereafter until the violations are terminated.

CASE NO. 3:

1. Carrier violated the rules of the current Clerks' Agreement at Barstow, California, on January 1, 1988, and thereafter, when it required and/or permitted employees that are not covered by the rules of the Agreement to perform routine schedule clerical work, and

2. I. R. Weaver and the employees herein named shall now be compensated for one call payment (three pro rata hours) at the rate of Claimant(s) regularly assigned position(s) in addition to any other compensation received as a result of such violation commencing January 1, 1988, and the work involved shall be returned to the Employees:

I. R. Weaver	M. A. Ortiz	R. D. Pederson	E. D. Daws
F. L. Bonilla	R. R. Shellnut	L. Ellis	T. G. Bingham
N. E. Miller	R. N. Freeman	J. N. Marx	L. E. Meyers
N. E. Clapperton	L. N. Bruce	J. E. Freeman	M. S. Piske
M. N. Provencio	R. J. Myott	A. Gonzalez	

3. Proper payment to be determined by a joint check of the Carrier's records and payroll.

CASE NO. 4:

1. Carrier violated the provisions of the current Clerks' Agreement at Barstow, California, on March 1, 1988, and thereafter, when it required and/or permitted employees that are not covered by the rules of the Agreement to perform routine schedule clerical work, and

2. I. R. Weaver and the employees herein named shall now be compensated for one call payment (three pro rata hours) at the rate of Claimant(s) regularly assigned position(s) in addition to any other compensation received as a result of such violation commencing March 1, 1988, and the work involved shall be returned to the Employees:

I. R. Weaver	M. A. Ortiz	R. D. Pederson	M. M. Provencio
F. L. Bonilla	R. R. Shellnut	L. Ellis	E. D. Daws
N. E. Miller	R. N. Freeman	J. N. Marx	T. G. Bingham
N. E. Clapperton	L. N. Bruce	J. E. Freeman	L. E. Meyers
M. S. Piske	R. J. Myott		

3. Proper payment to be determined by a joint check of the Carrier's records and payroll."

FINDINGS:

The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

This case involves four separate Claims now before the Board. These essentially assert that the Carrier violated "Rule 1-Scope." However, while Claims Nos. 1 and 2 involved different locations than Claims Nos. 3 and 4 and slight variations of the tasks being challenged, we conclude, after a thorough review of all of the Claims, that the controlling issues and questions are identical.

Pursuant to the Railway Labor Act, the Board is constrained to consider only the issues and arguments presented on the property. In this dispute, we note that a number of documents and arguments connected thereto have been presented for the first time at this level and, therefore, will not be considered.

With respect to those elements of the Claims which are properly before us as developed on the property, we find that the Organization has not substantively refuted the material statements contained in the Carrier's denial letters of March 25, 1988 (for Claim No. 1), April 13, 1988 (for Claim No. 2), May 20, 1988 (for Claim No. 3) and July 15, 1988 (for Claim No. 4). Accordingly, the material statements stand as established fact and the Claims must be denied.

A W A R D

Claims denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 19th day of July 1990.