

The Third Division consisted of the regular members and in addition Referee Joseph A. Sickles when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International Union  
(Bessemer and Lake Erie Railroad Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood (GL-10384) that:

1. Carrier violated the effective agreement when on and after November 23, 1987, it contracted with outsiders for the performance of work reserved to employees covered thereby.

2. Carrier shall now compensate Mr. T. H. Balzer one and one-half hours' pay at the time and one-half rate for November 23, 1987, and shall further compensate Mr. Balzer at the time and one-half rate for the time actually required to perform printing work contracted to outsiders each and every day thereafter that a like violation occurs. Dates and amounts to be determined by a joint check of Carrier records."

FINDINGS:

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

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employees 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.

Carrier maintains a Service Bureau that handles printing of various documents. On December 31, 1987, the Organization submitted a Claim based upon an assertion that Carrier was ceasing the internal printing of Form 337-GE to have same printed by an outside firm, in violation of the Scope Rule as demonstrated by the "Head Duplicating Machine Operator" bulletin.

In response, Carrier advised that forms were not being printed by an outside Company. Carrier continued, however, to purchase writing tablets, pencils, pens, etc. which it had done for years. Further, Carrier advised that the Form in question is no longer used.

Not only do we emphasize that a Petitioning party must satisfy the burden of proof, but we also remind the parties that we are precluded from considering matters that were not considered when the dispute was under active consideration on the property. We may not consider matters presented to us in the first instance.

We find no probative evidence, properly before us, that the Carrier did other than discontinue an obsolete form and continue to order regular tablets from vendors.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Bever - Executive Secretary

Dated at Chicago, Illinois, this 29th day of January 1991.