

The Third Division consisted of the regular members and in addition Referee George S. Roukis when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International Union
(Soo Line Railroad Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood
(GL-10351) that:

1. Carrier violated the TCU Rules Agreement in effect on the Soo Line Railroad when it utilized employees outside the Scope and application of the Agreement to assume duties covered under the Scope and application of such Agreement effective January 6, 1986.

2. Carrier shall now be required to compensate employee D. L. Seibert, Traveling Agent No. 11, located at Waukesha, Wisconsin, his successor and/or reliefs for three (3) hours pro rata on January 6, 7, 8, 9, 10, 27, 28, 1986, and continuing daily until such time as the Agreement is complied with."

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 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.

The Organization contends that Carrier violated Rule 1(d) (Scope) of the Controlling Agreement when an Agent of the Wisconsin Southern Railroad telephoned Carrier's Dispatcher advising that cars were set out at Rugby Junction, Wisconsin, and ready to be picked up by the Carrier. It claims that said work was traditionally performed by Carrier's Traveling Agent #11 and thus was improperly assigned. It maintains that since Rule 1(d) is a position and work Scope Rule, Carrier was estopped from assigning this work to non-covered employees/individuals. It also argues that it need not establish exclusivity when the work is within the "freeze-frame" of Rule 1.

In response, Carrier contends that the identified Claimant was not deprived of any work, since the Agent simply advised Carrier's Dispatcher as to the number of cars and direction. It points out that the work did not involve the receipt of weigh bill information or the processing of cars for interchange. It notes that the Carrier's Dispatcher notifies the train crew that cars are ready to be picked up, but such work which is incidental in nature does not require taking down lists.

In considering this case, the Board concurs with Carrier's position. Careful analysis of the record does not establish that the disputed work was more than incidental in nature or that any Agreement Rules were violated. We also find, at least from this record, that the Carrier's Dispatcher did not take a list. Accordingly, in view of these findings, we are compelled to deny the Claim.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dwyer - Executive Secretary

Dated at Chicago, Illinois, this 28th day of March 1991.