

The Third Division consisted of the regular members and in addition Referee Peter R. Meyers 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-10358) that:

1. Carrier violated the Agreement between the parties when work traditionally and historically performed by persons covered under the current Agreement between the parties was removed on November 6, 1986 by the abolishment of the Operator positions at Schiller Park, Illinois.

2. Carrier shall now return all work which was performed by Schiller Park Operators to the personnel covered under the current Agreement and compensate them for all time as follows:

3. The incumbents of the abolished positions; Mr. E. Fehrman Jr., Mrs. D. Denofrio, Mr. W. McGreevey and Ms. L. Scott, commencing at 12:01 AM December 13, 1986 and continuing for eight (8) hours each day, for each of the following shifts:

8:00 AM to 4:00 PM
4:00 PM to 12:00 Midnight
12:00 Midnight to 8:00 AM,

seven days per week, at the rate of \$12.9659 per hour, plus any subsequent rate increase that may apply, until the violation is corrected."

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.

On November 6, 1986, the Carrier abolished the Operator positions at Schiller Park, Illinois. From that date, Train Orders instead were transmitted between Stevens Point, Wisconsin, and Schiller Park by fax machine. The Organization then filed a claim on the Claimants' behalf, contending that the Carrier violated the current Agreement by removing work traditionally and historically performed by persons covered under the Agreement. The Carrier denied the claim.

This Board has reviewed the record in this case, and we must find that the Organization has not met its burden that the Carrier has violated Rule 2 and Supplement 0 when it began delivery of train orders by the operator at Stevens Point, Wisconsin, to the train crew at Schiller Park, Illinois, by means of a telefax machine.

Organization members continue to handle the Train Orders in Stevens Point, Wisconsin. The major difference is that, now, the Clerk in Stevens Point delivers the Train Order to the Conductor in Schiller Park, Illinois, via telefax machine. There is no non-member who is involved in the delivery of the order. Rule 2(a) prohibits the use of any employee other than an Organization member from handling Train Orders at telegraph or telephone offices, except in an emergency. In this case, the copying of the Train Order and delivery to the Conductor has been accomplished at Stevens Point, Wisconsin. Therefore, there has been no violation of the Rule.

As the Carrier points out, neither Rule 2 nor Supplement 0 prohibit the use of Train Order hoops, Train Order forks, pneumatic tubes, or other devices by operators to effect delivery of Train Orders. The only prohibition relates to utilizing employees other than covered employees. The use of pneumatic tubes has been determined by this Board not to be a violation of the Rules. This Board has held that personal delivery by telegraphers is not required. (See Third Division Awards 9988 and 13244.)

Now that the fax machine has been developed, this Board cannot require, under the Rules cited by the Organization, that the Carrier pay employees to stand by the telefax machine in order to receive an occasional Train Order and then hand it to the Conductor. The Carrier has abided by the Rules, despite the fact that it has introduced new equipment. Consequently, this Board must find that the claim be denied.

A W A R D

Claim denied.

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Award No. 29396
Docket No. CL-28803
92-3-89-3-200

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 17th day of September 1992.