

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award No. 30183

Docket No. CL-29849

94-3-91-3-221

The Third Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

(Transportation Communications International Union)
PARTIES TO DISPUTE: (CSX Transportation, Inc. (former Louisville and Nashville Railroad)

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood (GL-10573) that:

1. Carrier is in violation of the Clerical Agreement at Gladsden, Alabama, on October 7, 1989, by requiring and/or permitting Yard Foreman Greene at Gadsden yard to check cars being pulled into Yard, booking same.
2. Claimant shall now be compensated eight (8) hours' pay at the rate of Base Agent, Position No. 140, for October 7, 1989, in addition to any other pay this Claimant may have already received for this date and returning this work to the clerical employees covered by this Agreement."

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 employee 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.

As Third Party in Interest, the United Transportation Union was advised of the pendency of this dispute, but did not file a Submission with the Board.

The occurrence giving rise to the Claim on behalf of a clerical employee (Base Agent) is described by the Organization as follows:

"On October 7, 1989, Carrier required or permitted Yard Foreman Greene at Gadsden, Alabama to check the ten (10) cars being pulled into the Yard."

This was a Saturday, on which the Claimant was not called for duty. The work involved "booking" cars coming from an industry, in this instance, Gulf States Steel Company. The Claimant contended that this is work he performs "each day of the week."

By sharp contrast, the Carrier contends that Foremen are regularly "required to book cars handled by them." The Carrier further states that this does not interfere with the duties of "adjusting the inventory" of cars, which remains the duty of the clerical employee.

In support of its position, the Organization cites an August 12, 1988, Memorandum instructing Foremen and Switchmen to "discontinue booking your cut from Goodyear to Storage Yard." The Carrier, however, responds that this change referred to a special condition at Goodyear only, and not Gulf States Steel, as involved here, and further, that the order was later modified.

In this conflicting presentation of the alleged facts of the dispute, the Board simply has no clear guidance to determine whether the October 7, 1989, occurrence was an exception to routine procedure in that duties belonging to the Claimant were taken over by the Foreman or, alternately, the "booking" of incoming cuts from an outside industry is regularly performed by Foremen, without impingement on the Claimant's assigned duties. If, as the Organization argues, there has been a deviation from accepted practice, a more clearly defined example is required to resolve the question.

In view of this, it is unnecessary to address several procedural issues raised by the Carrier.

A W A R D

Claim dismissed.

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By Order of Third Division

Attest: Linda Woods
Linda Woods - Arbitration Assistant

Dated at Chicago, Illinois, this 26th day of April 1994.