

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 30597
Docket No. CL-31064
94-3-93-3-72

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

(Transportation Communications International
(Union
PARTIES TO DISPUTE: (
(Chicago SouthShore and South Bend Railroad

STATEMENT OF CLAIM: "Claim of the System Committee of the
Brotherhood (GL-10927) that:

1. Carrier violated the agreement when on January 20, 1992, it required and/or permitted an outsider to perform work reserved to employees fully covered by said agreement;
2. Carrier shall now compensate the senior available off-duty clerical employee three (3) hours' pay at the time and one-half rate for the above date."

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.

The clerical incumbent on the 4:00 P.M. shift is responsible for preparing necessary switch lists for early morning crews before going off duty. On January 20, 1992, the Clerk failed to do so for seven cars. The Train Dispatcher was required to issue instructions for the crew on how to handle these seven cars. He did so by writing the car numbers and track numbers on a "Clue System Switch List" form.

The facts are not in dispute. However, while this Board finds that an employee not covered by the Agreement performed clerical work, the Organization failed to cite a Rule that provides three hours pay at the overtime rate to the senior available off-duty clerical employee. In fact in its handling on the property and before this Board, the Organization only cites Rule 1, "Scope and Work of Employees Affected."

The Organization failed to meet the burden of proof by failing to cite a Rule which would provide for the payment claimed.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 2nd day of December 1994.