

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 30658
Docket No. CL-30013
95-3-91-3-436

The Third Division consisted of the regular members and in addition Referee Dana E. Eischen when award was rendered.

(Transportation Communications International
(Union
PARTIES TO DISPUTE: (
(CSX Transportation, Inc. (former Chesapeake
(and Ohio Railway Company)

STATEMENT OF CLAIM:

"Claim of the System Committee of the Union (GL-10615) that:

CLAIM NUMBER 1:

- (A) The Carrier violated the terms of the General Agreement and Memoranda thereto when it utilized the services of non-contract people to perform janitorial services at the Administration Building at Queensgate on May 6 (Saturday) and 7 (Sunday), 1989, in violation of Rule 1 and 35; and,
- (B) The Carrier shall now arrange to allow K. M. Day, ID 187670 eight (8) hours at punitive rate of \$114.97 per day for the above dates.

CLAIM NUMBER 2:

- (A) The Carrier violated the terms of the General Agreement and Memoranda thereto when it utilized the services of non-contract people to perform janitorial services at the Administration Building at Queensgate on May 6 (Saturday) and 7 (Sunday), 1989 in violation of Rule 1 and 35; and,
- (B) The Carrier shall now arrange to allow R. A. Kerner ID 183098 eight (8) hours pay at punitive rate of \$114.97 per day for the above dates."

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.

Carrier has a large train operation located at Queensgate Yard, Cincinnati, Ohio. The Queensgate Administration Building accommodates the continuous Terminal Service Center (TSC) operation which is primarily staffed by Clerical craft employees. It should be noted that Janitors and Matrons are listed under the general heading of "clerical workers." Carrier's decision to contract out "extra heavy cleaning" to a janitorial service constitutes the gravamen of this dispute.

On May 6 and 7, 1989 Carrier hired "Mopettes Maid Service" to perform "extra heavy" cleaning duties at its Queensgate Administration Building. The Organization protested Carrier's decision alleging a violation of Agreement Rules 1-Scope Rule and 35 which addresses work on "unassigned" days with relation to a "regular" employee. In addition to these Rules, the Organization cited a 1981 Memorandum Agreement which came as a result of Carrier's attempt to "consolidate and reorganize" clerical functions previously performed at various locations.

The Organization rests its case chiefly upon the assertion that Carrier violated the Agreement when it hired an outside contractor to perform work "historically" reserved to clerical employees.

However, the cited Rules do not articulate any work which is exclusively or historically reserved to the grieving employees. The Scope Rule states only that Janitors and Matrons are considered "clerical workers." The Scope Rule does not designate which tasks are assigned to Janitors, nor does it mention any work which exclusively accrues to Janitors. As this Board has held on numerous occasions, this Scope Rule does not describe the work incorporated within it. See Third Division Awards 4827 and 615. The 1981 Memorandum Agreement designated positions which were to be abolished subsequent to the reorganization in addition to a list of those positions to be created. The Memorandum does not designate particular tasks which accrue to any certain craft.

Although the Claimants may have occasionally performed the work in dispute, there was no showing of reservation by custom, practice or tradition of exclusive performance. Nor did the Organization refute Carrier's assertion that it "usually" contracted out these duties. Based on the foregoing, this claim is denied.

AWARD

Claim denied.

O R D E R

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

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Dated at Chicago, Illinois, this 31st day of January 1995.