

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 30813
Docket No. CL-29371
95-3-90-3-400

The Third Division consisted of the regular members and in addition Referee Edwin H. Benn when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International
(Union
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(The Belt Railway Company of Chicago

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood (GL-10486) that:

(1) Carrier violated the effective agreement when it abolished the positions of Crane Operator No. 96 and Crane Operator Helper No. 93, effective November 1, 1988, and thereafter assigned the work of those positions to employes not covered by the agreement and to outsiders.

(2) Carrier shall now compensate the two senior available employes, furloughed in preference, eight (8) hours' pay at the appropriate rate; i.e., straight time if furloughed or time and one-half if regularly assigned for November 1, 1988, and for each and every day thereafter that a like violation occurs."

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 were given due notice of hearing thereon.

By bulletins dated October 24, 1988, the Carrier abolished the Crane Operator and Crane Operator Helper positions in its Stores Department effective November 1, 1988. According to the Carrier, the positions were abolished first, because the crane used by the Stores Department employees was beyond repair and had been scrapped and second, because of a severe decline in business, the Carrier purchased a minimal amount of heavy materials.

The on-property correspondence further reveals that the Stores Department has now been closed (according to the Carrier's submission in January, 1990). While initially taking the position in its letter of February 15, 1989 that since the abolishment of the positions "...no work whatsoever has been performed by a crane of any kind, or by any department." as stated by the Carrier in its October 19, 1989 letter, the record reveals that prior to that closure and subsequent to the abolishment of the positions "...[o]n the rare occasion when a crane is needed in the Stores Department (approximately four hours per week), a Maintenance of Way crane is utilized."

Rule 1(b) states that "Positions or work coming within the scope of this agreement belong to the employees covered thereby." Under Rule 1(c), "...crane operators and crane operator helpers (Storehouse)...." are specifically mentioned. Given the decline in the Carrier's business and the limited operation of the Stores Department, the Organization has not demonstrated that the Crane Operator's and Helper's full time work was transferred to strangers to the Agreement. But, the Carrier effectively concedes that after the positions were abolished, scope covered work was performed by Maintenance of Way employees "...approximately four hours per week". However, under Rule 1(b), that Storehouse crane work "...belong[ed] to the employees covered thereby" Because the record shows that scope covered work was assigned to Maintenance of Way employees, a sustaining award is in order.

With respect to the remedy, because the Stores Department eventually closed, the Carrier's liability shall be limited to a total of four hours pay per week to be computed from the date the positions were abolished (November 1, 1988) until such time as that department closed. The Carrier's liability shall be further conditioned upon the existence of a qualified Crane Operator or Helper who was in a furloughed status during that period. Such compensation, if any, shall be at the straight time rate.

AWARD

Claim sustained in accordance with the Findings.

Form 1
Page 3

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O R D E R

This Board, after consideration of the dispute identified above, hereby orders that an Award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 27th day of April 1995.