

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 31061
Docket No. CL-30416
95-3-92-3-299

The Third Division consisted of the regular members and in addition Referee John B. LaRocco when award was rendered.

(Transportation Communications International
(Union
PARTIES TO DISPUTE: (
(Monongahela Railway Company

STATEMENT OF CLAIM: "Claim of the System Committee of
the Organization (GL-10789) that:

- (a) The Carrier violated the TCU Rules Agreement dated July 26, 1990, particularly Rule 1 (Scope), Rule 18 and others when on January 9, 1991, after normal working hours or prior to normal starting time on January 10, 1991, Mrs. C. J. Rath performed clerical work in violation of the rules when she checked, interchanged and filed the CSX interchange reports. This work belongs exclusively to the TCU employees.
- (b) Claimant B. Bell should be allowed 8 hours time and one-half at the daily rate of pay \$116.20 as a penalty due to this violation."

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 Organization charges that a Treasurer/Agent, an employee not covered by the scope of the applicable clerical agreement, performed clerical work (usually performed by the Agency Clerk)

either after normal hours on January 9, 1991 or before the Agency Clerk's starting time on January 10, 1991. In sum, the Organization alleges that the Treasurer/Agent handled interchange reports which is work normally accomplished by the incumbent of the Agency Clerk position. The Carrier responded that the Treasurer/Agent did not handle interchange reports but merely checked some reports and noted corrections thereon.

The record in this case reflects that clerical employees, covered by the scope of the applicable clerical agreement, perform interchange work at another office. The Organization failed to meet its burden of proving that Claimant performs such work on a daily or routine basis. Therefore, the Organization did not bring forward adequate proof that the Treasurer/Agent performed any work before or after the working hours of the Agency assignment that the incumbent of the Agency assignment regularly performs.

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 1st day of September 1995.