

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 31096
Docket No. CL-31012
95-3-92-3-901

The Third Division consisted of the regular members and in addition Referee Martin F. Scheinman when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications
(International Union
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(National Railroad Passenger Corporation
((AMTRAK)

STATEMENT OF CLAIM:

"Claim of the System Committee of the Organization (GL-10897) that:

- (1) Carrier violated the Agreement specifically Rule One and other related Rules of the Agreement, when it diverted the work previously performed by the position of Secretary and then allowed supervisory personnel to perform the work belonging to that position.
- (2) Carrier shall now compensate the Senior, Qualified Unassigned employee eight (8) hours at the rate of Secretary, and if none were available, Carrier shall compensate the Senior, Qualified regularly assigned Secretary, Clerk Typist or Statistical Clerk eight (8) hours at the overtime rate of their respective position commencing 9/12/90 and continuing until such violation is rectified."

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.

In this claim, the Organization contends that Carrier violated Rule 1(e) of the Agreement when the Inspectors' reports from the Quality Assurance Department were being typed by a Supervisor instead of by a secretary. It submits that Rule 1(e) mandates that Supervisors will not perform clerical work which is within the scope of the Agreement, except under critical and/or emergency conditions, while instructing employees and/or when incidental to their assigned duties.

The Organization disputes the Carrier's argument that the work is incidental to the duties of a Supervisor. It submits that the operation of a computer keyboard is purely clerical work and therefore should be assigned to the clerical staff. Accordingly, the Organization asks that the claim be sustained.

Carrier argues that it did not violate the Agreement. It maintains that the Organization failed to prove a violation of the Scope Rule. Carrier maintains that the Organization has not established that typing is work performed by the Organization to the exclusion of others.

Carrier further submits that it demonstrated that typing has been performed by Supervisors, as well as employees represented by other labor organizations, on various occasions at different locations throughout the system.

Accordingly, and for these reasons, Carrier asks that the claim be denied.

After a review of the record evidence, we conclude that the claim must be denied. It has been determined that the Scope Rule of the Clerks' Agreement is "general in nature." Therefore, in order for the Organization to prevail in this dispute, it must satisfy the requirements of exclusivity. Under the evidence presented, the Organization failed to demonstrate that the employees whom it represents performed the work in question, on a system-wide basis, to the exclusion of others.

Accordingly, and for the foregoing reasons, the claim is denied.

AWARD

Claim denied.

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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.