

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 31878
Docket No. CL-32017
97-3-94-3-373

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

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

STATEMENT OF CLAIM:

"Claim of the System Committee of the Organization (GL-11067) that:

The following claim (AM-807) is hereby presented to the Carrier on behalf of Claimants J. I. Webb, J. D. Dowd, R. E. Stone and J. E. Laurenzo:

(a) The Carrier violated the Clerks' Rules Agreement particularly Rule 1, 14 and other rules, when it permitted and allowed 12 Carmen and 4 Laborers to perform the duties of Janitor/Building Cleaner, on December 18, 1992, at the Beech Grove Amtrak Facility, work which was originally given to TCU Clerks per Letter of Understanding dated September 25, 1990, between General Chairman H. W. Randolph, Jr., and your Director Labor Relations K. P. O'Connor, and failed to call and work the above named Claimants to perform that work on those days.

(b) Claimants J. I. Webb, J. D. Dowd, R. E. Stone and J. E. Laurenzo now be allowed eight hours pay each at the punitive rate of \$67.68 per day commencing December 18, 1992, and continuing for each and every day thereafter on account of this violation.

(c) Claimants are qualified, were available and should have been used to perform this work."

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.

In this claim the Organization argues that its Scope Rule gives it the exclusive right to perform certain janitorial functions at Carrier's Beech Grove facility. The Scope Rule involved has been the subject of dispute in several Public Law Board and National Railroad Adjustment Board Awards. Each of these Awards, uniformly, has concluded that for the Organization to prevail in a claim contending that work subject to its Agreement is being performed by strangers to the Agreement, it must first be demonstrated that the work was reserved exclusively to members of its Craft.

The Organization argues that it satisfied that test here, and points to a Letter Agreement dated September 21, 1990 where special rates of pay and Janitor/Building Custodian positions were established at Carrier's Beach Grove facility. The Organization maintains that the existence of this Agreement demonstrates that it has an exclusive entitlement to janitorial work in the facility.

The Board does not agree. Careful reading of the September 21, 1990 Letter Agreement fails to disclose that it reserves exclusive entitlement to all janitorial work at Beech Grove, as argued by the Organization. The Carrier maintains, that notwithstanding the existence of the Letter Agreement, members of the Carmen and Laborers' Crafts have continued to perform shop cleanup duties since Janitor/Building Custodian positions were established. This indicates that the work involved in this dispute was not reserved exclusively to members of the Clerical Craft. Further, it has not been demonstrated that members of the Carmen and Laborers' Crafts have been

doing any work other than that ordinarily performed by them in the past. Accordingly, the claim must be denied.

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 4th day of March 1997.