

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 33899
Docket No. CL-34423
00-3-98-3-71**

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

**(Transportation Communications International Union
PARTIES TO DISPUTE: (
(Delaware and Hudson Railway Company, Inc.**

STATEMENT OF CLAIM:

“Claim of the System Committee of the Organization (GL-11931) that:

- (a) The Carrier violated the Clerks’ Rules Agreement effective September 26, 1990, particularly, Rules 1 (Scope), 4, 5, Appendix I and other Rules, when commencing on or about December 4, 1995, the Carrier removed work in connection with inputting Locomotive Servicing Data into the Carrier’s computer by means of VDT/CRT from Claimant Higgins’ covered Clerical assignment, and assigned it to Employees (L. Vagliardo, L. Hine, R. Toomey, W. Yusscellis and J. Barnett) whom are not covered by the Clerical Rules Agreement.**
- (b) The duties being claimed have been historically assigned to, and performed by, the Clerical Employees at the Binghamton, New York, Repair Facility location, until December 4, 1995, when the Carrier arbitrarily removed same from Claimant Higgins’ position.**
- (c) Claimant Higgins should now be allowed eight (8) hours punitive pay based on the pro-rata hourly rate of \$14.88, commencing December 4, 1995 and continuing for each and every day thereafter, until this violation is corrected.**
- (d) In order to terminate this claim all the involved duties must be returned to Employees covered by the Clerical Agreement.**

- (e) The time limits for presentation of this claim have been extended by mutual agreement between the parties, as verified by letter dated January 30, 1996, during the period in which the Carrier's Labor Relations Department requested the opportunity to investigate the matter, whereupon they would advise the Organization of their findings and the time limits would not commence until the Carrier so advised the Organization of same. Said advice was provided during the Side Bar discussion at a Conference held on October 23, 1996, at the Carrier's Clifton Park, New York headquarters.
- (f) Therefore, this claim has been presented in accordance with Rule 28-2 and should be allowed as presented."

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.

The instant dispute arose after Carrier installed a new computer system for locomotive servicing. Under the old system, Supervisors would (1) receive locomotive maintenance and servicing reports from shop employees (2) go to the computer and print out a hard copy of the locomotive's service history (3) write on the hard copy information such as parts, parts numbers and parts codes and (4) give the hard copy to the Clerk who would input the handwritten data into the computer system.

Under the new system, the Supervisors receive the maintenance and service reports from the shop employees; retrieve the locomotive's service history on the

computer screen; look up the parts, part numbers and part codes in the computer; and, instead of handwriting this information on a hard copy printout, hit the "enter" key and the computer automatically updates the service history.

The Organization contends that the Supervisors are now performing the work of inputting the service data and that the work is reserved to Clerks. The Organization relies primarily on Third Division Award 29046 (TCU vs. GTW) which, it contends, is virtually identical to the instant case. The Carrier argues, however, that the Supervisors are not performing any Clerk work, but that the work of inputting the service updates has been eliminated as it now is performed automatically by the computer. The Carrier further argues that to the extent that the act of hitting the "enter" key is Clerical work, it is incidental to the Supervisors' primary duties and is permitted by Rule 1(c).

Rule 1(b) provides:

"This contract shall govern the hours of service, rates of pay and working conditions for employees of the Carrier engaged in work in positions to which this agreement applies as provided in Rule 32, i.e. Clerks Grade I, II and III. Positions and/or clerical duties shall not be removed from the application of Rules of this Agreement except by agreement between the parties signatory hereto or as provided herein."

Rule 1(b) is a "positions and work" Scope Rule. See Third Division Award 31018.

Rule 1(c) provides:

"Clerical duties covered by this Rule which may be incidental to the primary duties of an employee not covered by this Agreement, may be performed by such employee provided the performance of such duties does not involve the preponderance of the duties of the other employee not covered by this Agreement."

In on-property Third Division Award 31732, the Board observed:

"Numerous cases on this Board have dealt with the computerization of work processes and the consequent abolishment of positions. At the core

of such decisions is the question of whether work has been actually eliminated in the process of adopting the 'labor saving' device."

It is against this background that we consider the impact of Third Division Award 29046. In that case, GTW mechanical employees would write in notebooks data they obtained when inspecting locomotives. They then transferred their notes to a form that was sent to Battle Creek, Michigan, where the Claimant worked. The Claimant entered the data from the accumulated forms into the computer system. The claim arose when computer terminals were installed at the Mechanics' locations. Instead of transferring their notes to the form, the Mechanics entered their data directly into the computer system.

The Board held that the Carrier violated the applicable Agreement by transferring from Clerks to Mechanics the work of entering the locomotive inspection data into the computer system. The Board found:

"[T]he nature of the work involved in this case is the entry of the data into the computer system. This is the work which was done by the Claimant before the change in procedures. Since then, the work has neither changed nor disappeared; it has simply been moved to be performed by others."

The record in the instant case, however, convinces us that the work at issue has disappeared. It has not been transferred from the Claimant to others. In Award 29046, after the Mechanics wrote down the inspection data in their notebooks, someone had to physically input it into the computer system. The Grand Trunk Western violated the Agreement when it transferred that work from Clerks to Mechanics.

In the instant case, the Supervisors obtain the service reports and locate the service histories in the computer system, just as they did under the old system. However, the new system eliminates the need for the Supervisors to print out a hard copy of the service history, locate the relevant data for the update, manually write the update onto the hard copy and give the hard copy to the Claimant for input into the computer system. Instead, the Supervisors locate the data in the computer as they did before and, by hitting the enter key, cause the computer to automatically update the service histories. The work of manually entering the updated data into the computer system has been eliminated, as has the Supervisors' work of handwriting the data onto a hard copy printout of the locomotive's service history.

We find that this case is much closer to on-property Third Division Award 30918, where the Board sat with the same Referee who sat with the Board in Award 29046. Furthermore, we agree with the Carrier, that, to the extent that the Supervisors' hitting the enter key is clerical work, it clearly is incidental to their duties and permitted under Rule 1(c).

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 24th day of January, 2000.