

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 34001
Docket No. CL-34899
00-3-98-3-622**

The Third Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International Union
(Burlington Northern Santa Fe Railway Company)

STATEMENT OF CLAIM:

“Claim of the System Committee of the Organization (GL-12147 that:

- (1) Carrier violated the Schedule Agreement at the Havre, Montana Diesel Shop when beginning December 28, 1995, the work of entering (keying) service level codes into Carrier's COMPASS computer system was performed by strangers to the Clerks Working Agreement on the unassigned days of the assignment (and before and after the clerical employees working hours) held by a clerical employee who regularly performs the work during her work week.
- (2) Carrier will be required to compensate P. A. Buerkle a minimum of three hours pay per shift at the straight time rate for the 3:00 P.M. and 11 P.M. shifts Monday through Friday; and four hours pay per shift at the straight time rate for the 7 A.M. 3:00 P.M. and 11:00 P.M. shifts on her Saturday and Sunday rest days. This will equate to 16 hours per week at the straight time rate, to begin December 28, 1995, and to continue until the violation is resolved with the work being returned to the clerical craft at Havre, Montana.”

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.

This claim is one more instance concerning the input of data into the Carrier's computer system by other than employees represented by the Organization. In this instance, the Organization contends that, beginning December 18, 1995, the Carrier improperly directed supervisory employees at Havre, Montana, to key information concerning locomotive inspections and/or servicing into the Carrier's COMPASS computer system on other than the day shift and on weekends.

The Board has been presented with a huge number of previous Awards, intended to support the Carrier or Organization's positions. Since these are familiar to the parties, the Board sees no need for citation of the Awards, although all have been reviewed.

At issue is the computer entry of data of information from Form No. 15606, Work Completion - EMD/GE or from other sources containing the same information.

The Organization contends:

1. The data entry is consistently performed only by the Claimant, a clerical employee, while she is on her regular first shift assignment, Monday through Friday.
2. Clerks on the second and third shifts also formerly performed this duty. These positions were abolished in late 1981. The reporting duty was assigned to Foremen.
3. Following this action, a claim was initiated in October 1982; a joint check was made on September 16, 1983; a settlement was reached

including monetary remedy to Clerks; and the work “was consolidated and returned to clerical employees.”

4. Since December 1995, the day shift Clerk continues this function, but Foremen are assigned this function when the day shift Clerk is not on duty -- that is, on second and third shifts and on weekends.
5. The Carrier admits to this arrangement. During the claim handling procedure, the General Superintendent stated in his claim response as follows:

“Furthermore, the amount of time spent by exempts [Foremen] in entering the data is de minimis, averaging less than 45 minutes per day.”
6. The Organization requested a joint check to determine the time spent in this data entry, and such request was refused by the Carrier.
7. As a result, the Organization concludes there has been an impermissible “transfer of duties from Clerks to strangers to the Agreement.”

The Carrier contends:

1. Prior to December 28, 1995, Foremen “manually” completed Form No. 15606, passed the Form to a Clerk, who inputted “certain information” into the COMPASS computer system.
2. In August 1996, the Carrier implemented the new computer Transportation Support System (“TSS”) to replace the COMPASS system.
3. The Carrier states:

“As a result, mechanical foremen working all three shifts began inputting locomotive servicing information directly

into the new computer system. Today, mechanical foremen simply utilize the new TSS Computer System to record the same locomotive servicing information that they used to record on paper forms.”

4. The effect, according to the Carrier, is simply to make unnecessary “the clerical ‘middleman’ function” by eliminating a paper form and inputting the information directly into the TSS system.

The Board is required to resolve the obvious conflicts in the parties’ positions as reflected above. The issue, however, cannot be abandoned or dismissed, as this would have the effect of a denial Award where in reality there appears to be merit to the Organization’s claim. Therefore, the Board reaches the following conclusions:

1. There is no response to the Organization’s statement that the Clerk on the day shift continues to input the data.
2. The Carrier has failed to demonstrate how the replacement of the COMPASS program with the TSS program provides any significant change in the reporting of data on locomotive inspections and/or servicing.
3. While the Form No. 15606 may or may not continue to be utilized, there is no explanation as to what has changed in how data is being recorded (either by the Clerk on the day shift or by others at other times). Put another way, no clear proof is offered to show that any “middleman” function has been eliminated, given the alleged continuing data inputting by the day-shift Clerk.

As a result, the Board inevitably finds that the clerical function continues. The Award will sustain the claim for the hours sought for the Claimant, except for dates on which no data entries were made on specific 3:00 P.M. to 11:00 P.M. shifts or on specific first shift rest days of the Claimant. This can be determined from a review of the records or by such other approximation on which the parties may agree.

One proviso must be added. The Carrier alleges that “foremen working all three shifts” have been inputting data. This appears to conflict with the uncontradicted

assertion by the Organization that this work continues to be performed on the day shift, Monday-Friday, by the Claimant. It may be that, at some point since the initiation of the claim, the work is no longer performed by the Claimant (or her successor in the same position). In such case, the remedy directed in the preceding paragraph applies until such change occurred. Further, such change would possibly represent a new dispute, requiring on-property handling, and is not before the Board for resolution.

AWARD

Claim sustained in accordance with the Findings.

ORDER

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 19th day of April, 2000.