

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 35519
Docket No. CL-35481
01-3-99-3-382

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

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

STATEMENT OF CLAIM:

“Claim of the System Committee of the Organization (GL-12362) that:

1. Carrier violated the Schedule Agreement dated May 6, 1980, specifically Rule 1, when on December 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 15, 17, 18, 19, 20, 21, 22, 24, 25, 26, 27, 28, 29, and 31, 1996 (79 separate violations) it directed or allowed strangers to the Agreement to perform clerical work of crew hauling to and from Great Falls, Montana.
2. Carrier will be required to pay eight hours pay at the straight time rate to the first-out, qualified GREB employee at Great Falls, Montana. If there were no GREB employees available, claim is then on behalf of the first out qualified Extra List employee at Great Falls, Montana for eight hours pay at the straight time rate. If there is no GREB or Extra List employees available, claim is then on behalf of the appropriate regular assigned employee at Great Falls, Montana at the appropriate overtime rate of pay.”

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 merits of the dispute in this case have been fully addressed in Third Division Awards 35514 and 35515. In sum, on December 1, 1980, crew hauling at Great Falls, Montana, was exclusively performed by Clerks and there was no agreement by the Organization for the Carrier to remove that work from the covered employees. The Carrier therefore violated Rule 1 and the May 6, 1980 Side Letter. The fact that the work in dispute may have included crew hauling resulting from the Carrier's rerouting of traffic does not change the result.

The claim for the dates covered in the consolidated Statement of Claim is therefore sustained. The adversely affected employees shall be made whole at the appropriate contract rate for the amount of hours of crew hauling performed by strangers to the Agreement on those dates. The matter is now remanded to the parties to determine the appropriate compensation for the affected employees.

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 24th day of July, 2001.