

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

Award No. 37735  
Docket No. CL-37291  
06-3-02-3-304

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

PARTIES TO DISPUTE: (Transportation Communications International Union  
(Duluth, Missabe and Iron Range Railway Company

STATEMENT OF CLAIM:

“Claim of the System Committee of the Organization (GL-12882)  
that:

DMIR-135 – STATEMENT OF CLAIM:

1. Carrier violated the TCU Clerical Employees Agreement at the Duluth Ore Docks on Tuesday, February 20, 2001, when it required and/or permitted persons, not covered by the Clerical Employees Agreement, to perform duties previously performed by Scope Rule covered employees in the Asset Management Department at the Duluth Ore Docks, including but not limited to: locating and ordering materials; handling material requisitions and purchase orders; receipt of materials from vendors; accepting material from vendors; loading and unloading materials; storing materials until needed by using departments; all related record keeping, tracing, correspondence; related data entry work; inventorying; disbursing; supervision, delivering and any other handling as related to Carrier’s vendor stocking process.
2. Carrier shall now be required to compensate J.W. Hussey, General Foreman at the Duluth Ore Docks, eight (8) hours pay at the punitive rate of the General Foreman position for

Tuesday, February 20, 2001, which he would have received had he been allowed to perform the above mentioned work.

**DMIR-136 – STATEMENT OF CLAIM:**

1. Carrier violated the TCU Clerical Employees Agreement at the Duluth Ore Docks on Thursday, March 1, 2001, when it required and/or permitted a person, not covered by the Clerical Employees Agreement, to perform the work of hauling a pallet of miscellaneous material from the Proctor Car Shop Storehouse to Keenan.
2. Carrier shall now be required to compensate the senior qualified available extra or unassigned clerical employee without forty (40) hours of straight time work from the week, eight (8) hours pay at the pro rata rate of the Truck Driver position or if none are available, the senior qualified available regularly assigned clerical employee, eight (8) hours pay at the punitive rate of the Truck Driver position or the rate of his regular assigned position, whichever is higher, for Thursday, March 1, 2001, which he would have received had he been allowed to perform the above mentioned work.

**DMIR-138 – STATEMENT OF CLAIM:**

1. Carrier violated the TCU Clerical Employees Agreement on Friday, February 9, 2001, when it required and/or permitted a person, not covered by the Clerical Employees Agreement, to perform the work of loading the B&B Department truck with four pallets of chloride and having an employee of the B&B Department deliver two (2) of them to Keenan and the other two (2) to Minntac.
2. Carrier shall now be required to compensate the senior qualified available extra or unassigned clerical employee without forty (40) hours of straight time work from the week,

eight (8) hours pay at the pro rata rate of the Truck Driver position or if none are available, the senior qualified available regularly assigned clerical employee, eight (8) hours pay at the punitive rate of the Truck Driver position or the rate of his regular assigned position, whichever is higher, for Friday, February 9, 2001, which he would have received had he been allowed to perform the above mentioned work.

**DMIR-140 – STATEMENT OF CLAIM:**

1. Carrier violated the TCU Clerical Employees Agreement on Monday, February 5, 2001, when it required and/or permitted a person, not covered by the Clerical Employees Agreement, at the Two Harbors Storehouse to perform the work of unloading storehouse stock material from a delivery truck and placing the material in the Two Harbors Electric Shop for safe keeping and signing the freight bill verifying receipt of this material.
2. Carrier shall now be required to compensate the senior qualified available extra or unassigned clerical employee without forty (40) hours of straight time work from the week, eight (8) hours pay at the pro rata rate of the Warehouse Foreman position or if none are available, the senior qualified available regularly assigned clerical employee, eight (8) hours pay at the punitive rate of the Warehouse Foreman position or the rate of his regular assigned position, whichever is higher, for Monday, February 5, 2001, which he would have received had he been allowed to perform the above mentioned work.

**DMIR-141 – STATEMENT OF CLAIM:**

1. Carrier violated the TCU Clerical Employees Agreement at Two Harbors on Saturday, February 10, 2001, when it required and/or permitted persons, not covered by the Clerical Employees Agreement, at the Two Harbors Storehouse to

perform the work of procuring an item that is storehouse stock and stored in Building No. 662.

2. Carrier shall now be required to compensate the senior qualified available extra or unassigned clerical employee without forty (40) hours of straight time work from the week, eight (8) hours pay at the pro rata rate of the Warehouse Foreman position or if none are available, the senior qualified available regularly assigned clerical employee, eight (8) hours pay at the punitive rate of the Warehouse Foreman position or the rate of his regular assigned position, whichever is higher, for Saturday, February 10, 2001, which he would have received had he been allowed to perform the above mentioned work.

**DMIR-169 – STATEMENT OF CLAIM:**

1. Carrier violated the TCU Clerical Employees Agreement at Proctor on Wednesday, April 4, 2001, when it required and/or permitted a person, not covered by the Clerical Employees Agreement, to perform the work of picking up steel from a vendor in Duluth and delivering it to another employee from a different craft that was working in Proctor
2. Carrier shall now be required to compensate the senior qualified available extra or unassigned clerical employee without forty (40) hours of straight time work from the week, eight (8) hours pay at the pro rata rate of the Truck Driver position or if none are available, the senior qualified available regularly assigned clerical employee, eight (8) hours pay at the punitive rate of the Truck Driver position or the rate of his regular assigned position, whichever is higher, for Wednesday, April 4, 2001, which he would have received had he been allowed to perform the above mentioned work.

**DMIR-170 – STATEMENT OF CLAIM:**

1. Carrier violated the TCU Clerical Employees Agreement at Proctor on Tuesday, April 10, 2001, when it required and/or permitted a person, not covered by the Clerical Employees Agreement, to perform the work of picking up Storehouse stock items from Ziegler, a vendor in Duluth, and getting it to the Duluth Ore Dock Storehouse.
2. Carrier shall now be required to compensate the senior qualified available extra or unassigned clerical employee without forty (40) hours of straight time work from the week, eight (8) hours pay at the pro rata rate of the Truck Driver position or if none are available, the senior qualified available regularly assigned clerical employee, eight (8) hours pay at the punitive rate of the Truck Driver position or the rate of his regular assigned position, whichever is higher, for Tuesday, April 10, 2001, which he would have received had he been allowed to perform the above mentioned work.

**DMIR-171 – STATEMENT OF CLAIM:**

1. Carrier violated the TCU Clerical Employees Agreement at the Duluth Ore Docks on Monday, June 18, 2001, when it required and/or permitted a person, not covered by the Clerical Employees Agreement, to perform the work of picking up a piece of 7/8" key stock and two cans of fluorescent orange spray paint from the Duluth Ore Docks Storehouse, with his personal vehicle, on his way to work on the afternoon shift at the Two Harbors Docks and delivered the material to the B&B Foreman at Two Harbors.
2. Carrier shall now be required to compensate the senior qualified available extra or unassigned clerical employee without forty (40) hours of straight time work from the week,

eight (8) hours pay at the pro rata rate of the Truck Driver position or if none are available, the senior qualified available regularly assigned clerical employee, eight (8) hours pay at the punitive rate of the Truck Driver position or the rate of his regular assigned position, whichever is higher, for Monday, June 18, 2001, which he would have received had he been allowed to perform the above mentioned work.

**DMIR-172 – STATEMENT OF CLAIM:**

1. Carrier violated the TCU Clerical Employees Agreement at the Duluth Ore Docks on Monday, June 25, 2001, when it required and/or permitted a person, not covered by the Clerical Employees Agreement, to perform the work of picking up a Storehouse stock item from Minnesota Bearing, a vendor in Duluth, and delivering it to the Duluth Ore Dock Storehouse.
2. Carrier shall now be required to compensate the senior qualified available extra or unassigned clerical employee without forty (40) hours of straight time work from the week, eight (8) hours pay at the pro rata rate of the Truck Driver position or if none are available, the senior qualified available regularly assigned clerical employee, eight (8) hours pay at the punitive rate of the Truck Driver position or the rate of his regular assigned position, whichever is higher, for Monday, June 25, 2001, which he would have received had he been allowed to perform the above mentioned work.

**DMIR-173 – STATEMENT OF CLAIM:**

1. Carrier violated the TCU Clerical Employees Agreement at Proctor on Thursday, June 14, 2001, when it required and/or permitted a person, not covered by the Clerical Employees Agreement, to perform the work of hauling scrap wooden pallets and wire reels from the Proctor Roundhouse area to Hartel's/DBJ Disposal company.

2. Carrier shall now be required to compensate the senior qualified available extra or unassigned clerical employee without forty (40) hours of straight time work for the week, eight (8) hours pay at the pro rata rate of the Truck Driver position or if none are available, the senior qualified available regularly assigned clerical employee, eight (8) hours pay at the punitive rate of the Truck Driver position or the rate of his regular assigned position, whichever is higher, for Thursday, June 14, 2001, which he would have received had he been allowed to perform the above mentioned work.

**DMIR-186 – STATEMENT OF CLAIM:**

1. Carrier violated the TCU Clerical Employees Agreement at Proctor on Thursday, September 6, 2001, when it required and/or permitted a person, not covered by the Clerical Employees Agreement, to perform the work of delivering brake shoes from the Proctor Diesel House to the Diesel Facility at Two Harbors.
2. Carrier shall now be required to compensate the senior qualified available extra or unassigned clerical employee without forty (40) hours of straight time work for the week, eight (8) hours pay at the pro rata rate of the Truck Driver position or if none are available, the senior qualified available regularly assigned clerical employee, eight (8) hours pay at the punitive rate of the Truck Driver position or the rate of his regular assigned position, whichever is higher, for Thursday, September 6, 2001, which he would have received had he been allowed to perform the above mentioned 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.

Subsequent to the hearing concerning these claims, the parties notified the Board that they had mutually agreed to withdraw the instant claims. Accordingly, without comment upon the merits, the Board finds that the above-cited claims must be dismissed as moot.

**AWARD**

Claim dismissed.

**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 23rd day of February 2006.