

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 37964
Docket No. CL-37050
06-3-02-3-14

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

(CSX Transportation, Inc. (former Seaboard Coast
(Line Railroad Company)
PARTIES TO DISPUTE: (
(Transportation Communications International Union

STATEMENT OF CLAIM:

“Carrier File 6(01-0226) TCU File 1.2597(18)SCL

1. Carrier violated the Agreement on (dates noted in each claim) when it required or allowed the on-duty Yardmasters and/or Trainmasters located at Montgomery, Alabama, to enter various raw data into the CSX computer system through the manipulation of the CRT. This violation included completing Yard inventory switchlist and double-over list (using the YSCS and YSCD functions) and adjusting cars into tracks (using the YSIA computer function). This was done in violation of Rules 1 and 57 of the General Agreement and Article III, Section 4, of the ICC mandated New York Dock.
2. Carrier shall now be required to compensate the Claimants eight (8) hours at time and one-half at their current rate of \$147.14, plus any additional wage or daily increases, for each shift the Claimants stood to be called from the overtime list, as described in Rule 18, to perform this work. (Days available are quoted in each claim.) This compensation shall begin on (dates specified in each claim) and continue for each day applicable until this violation is stopped. And a joint check of the Carrier's records to validate each violation shall be required.”

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.

As Third Party in Interest, the United Transportation Union - Yardmasters Department (UTU) was advised of the pendency of this dispute and chose to file a Submission with the Board.

In this claim, the Organization alleges that the Carrier assigned Yardmasters and/or Trainmasters at Montgomery, Alabama, to perform data entry functions through the use of YSCS and YSCD functions, as well as adjusting cars into tracks using the YSIA function rather than assigning that work to a Customer Service Representative ("CSR") at the Customer Service Center ("CSC") in Jacksonville, Florida.

The background for this claim is set forth in Third Division Awards 37227 and 37760.

As more fully set forth in Third Division Award 37760, the Board has jurisdiction to resolve this claim.

The record in this case shows that the disputed work: (1) was performed by someone other than a CSR at the CSC; (2) was performed by a Clerk at Montgomery, Alabama, prior to the 1991 Implementing Agreement; and (3) was performed by a CSR at the CSC after the 1991 Implementing Agreement took effect. See the statements from employees found at TCIU Exhibit 24, pages 62, 93, 94, 96, 193 and 273. Under the three-part test set forth in Third Division Award 37227, the Organization has shown that the work was transferred from

Montgomery to the CSC under the terms of the 1991 Implementing Agreement and was later improperly performed by someone other than a CSR at the CSC in violation of the parties' Collective Bargaining Agreements.

For reasons stated in Third Division Award 37760, arguments made by the UTU do not change the result.

Under the rationale stated in Third Division Award 37227, this claim shall be sustained at the \$15.00 requirement. The remedy is limited to the specific transactions on the specific dates set forth in the claims filed on the property.

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 25th day of October 2006.