

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 37965
Docket No. CL-37074
06-3-02-3-34**

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(00-1467) TCU File 1.2501(18)SCL

1. Carrier violated the Agreement on July 8, 2000, when it allowed Yardmaster M. Watson, to make Yard Inventory Adjustments (YSIA) on train/track/cut at Decatur, Illinois. This violation was performed in lieu of allowing this work to be performed by Clerical employees in the Customer Service Center at Jacksonville, Florida.
2. Carrier shall now compensate the Senior Available Employee, extra or unassigned in preference, eight (8) hours at the applicable rate of \$147.14 or the punitive rate, if applicable, for the above violation.”

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 a Yardmaster at Decatur, Illinois, to make yard inventory adjustments 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 Decatur, Illinois, prior to the 1991 Implementing Agreement; and (3) was performed by a CSR at the CSC after the 1991 Implementing Agreement took effect. See Public Law Board No. 5782, Award 3 issued under the December 1, 1994 Agreement (which was followed in Third Division Award 37227) and which decided this issue at Decatur in the Organization's favor. Under the three-part test set forth in Third Division Award 37227, the Organization has shown that the work was transferred from Decatur 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.