

NATIONAL RAILROAD **ADJUSTMENT** BOARD

THIRD DIVISION

Award Number 21382
Docket Number CL-21370

Irwin M. Lieberman, Referee

(Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station **Employees**

PARTIES TO DISPUTE: (

(The Pittsburgh and **Lake Erie Railroad Company**

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brotherhood,
GL-7928, that:

(a) The Carrier violated the Rules Agreement, effective September 1, 1946, particularly the Scope Rule thereof, when it required or permitted employees outside the Scope of the Rules Agreement between the parties hereto to perform clerical work.

(b) The following employees be compensated for one minimum days' pay, at the applicable pro rata rate, for each of the dates **shown** after their respective names:

R. D. **Dunegan**, September 18, 1973
H. J. Meyers, September 4 and October 5, 1973
R. N. Erickson, August 8, August 23 and October 18, 1973
J. F. **Frush**, September 15, 1973
H. G. Montgomery, July 28, August 18 and August 26, 1973

OPINION OF BOARD: **This** dispute involves the alleged performance of clerks' work by **yardmasters in derogation** of the Agreement.
Rule 1 (e) of the applicable Agreement provides:

"(e) Positions or work within the scope of this Agreement belong to the **employees** covered thereby and shall not be removed therefrom without negotiation and agreement between the parties signatory thereto."

We have held in the past that under Rules such as that above all work **being performed under** the Clerks' agreement is preserved to the **Organization** until it is negotiated out (see Award 19719 in particular as well as Awards 6357, 7129, 8500, 11072 **and** 12903).

Petitioner claims, and Carrier admits in its rebuttal statement that the work of checking tracks, listing of the cars thereon, and the preparation of switch lists has been traditionally recognized as belonging to clerks. The sole **significant issue** in this dispute **is whether or not such work was performed by the yardmasters, as Petitioner claims.**

It should be **noted** that Petitioner's reliance **on** certain claims which were paid **on** the property is not well taken. Those claims were paid based on the **time** limit for **handling** claims rules and **cannot** be considered to constitute a precedent. In addition, the submission of a Carrier notice dated **November** 15, 1974 as evidence, was improper since that action followed the completion of the handling on the property and hence **may** not be considered by us.

Carrier contends that the **yardmasters**, on the dates of the various claims, merely made **corrections** of the switch lists prepared by machine by the clerks and also added track numbers, as was their **responsibility**. We have no quarrel with those specified functions of the **yardmasters**. However, a perusal of the record indicates that yardmasters did indeed prepare handwritten switch lists as well as make significant additions **to** machine prepared lists, **in** addition to their normal functions as indicated **above**. Since it is quite clear that all additions to switch lists should be prepared by clerks, as well as their initial preparation, these actions by the yardmasters constituted a prima facie violation of the Agreement. For this reason, the Claims **must** be sustained.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, **finds** and holds:

That the parties waived oral hearing;

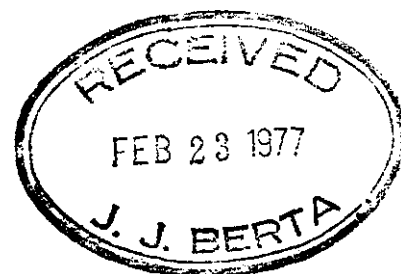
That the Carrier **and** the **Employes** involved in this dispute are respectively Carrier **and** **Employes** within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was violated.

A W A R D

Claims sustained.



NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: _____

A. W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 28th day of **January** 1977.