

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 29530
Docket No. CL-29596
93-3-90-3-574

The Third Division consisted of the regular members and in addition Referee John B. LaRocco when award was rendered.

PARTIES TO DISPUTE: (Transportation-Comomunications
(International Union
(
(Atchison, Topeka & Santa Fe
(Railway Company

STATEMENT OF CLAIM:

"Claim of the System Committee of the Organization (GL-10523) that:

- A. Carrier violated the intent and provisions of the current Clerks' Agreement at Kansas City, Kansas, on September 7 through 13, 1989 (seven days), when it failed and/or refused to call R. T. Franklin to protect overtime on Senior Clerk Position No. 6022, and
- B. Claimant R. T. Franklin shall now be compensated eight (8) hours' pay at their time and one-half rate of Senior Clerk Position No. 6022, for September 7 through 13, 1989 (seven days), in addition to any other compensation received for these dates."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes 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 waived right of appearance at hearing thereon.

Claimant was regularly assigned to a Senior Clerk position in the Mechanical Department at Kansas City, Kansas. According to Claimant, in the past, he performed duties associated with bulletining shop craft positions as well as the displacement and assignment of shop craft employees. These duties are listed on prior bulletins advertising his job. Claimant also asserted that a substantial number of changes in shop craft jobs generated a heavy work load necessitating Claimant to perform a large amount of overtime service to complete the task of assigning shop craft employees.

During the period from September 7, 1989 through September 13, 1989, the Carrier prepared for a major reorganization of its Kansas City shops affecting approximately 450 shop craft employees. The Carrier had slated all shop craft jobs for abolition on September 17, 1989, with reestablishment of new positions effective September 18, 1989. On September 7, the Shop Superintendent instructed the Local Chairmen and Committeemen of the various shop craft labor organizations to handle the advertisements, displacements and assignments of employees affected by the reorganization within their respective crafts. Claimant handled the displacement and reassignment of three laborer positions as well as shop craft employees from all crafts who were on vacation or a leave of absence during the reorganization. According to the Organization, the local union officers for the shop craft unions spent an aggregate of 275 hours to perform the displacement and assignment work. Claimant contends that he could have completed this project by working 56 hours before and after his regularly assigned shifts between September 7 and September 13, 1989. Thus, Claimant seeks 56 hours at the overtime rate of pay.


On the property, the Organization relied on Rule 32-G which gives preference to the occupant of a position to perform overtime service before and after the regularly assigned shift where the work to be performed is of the same class of work that the occupant usually performs. Unlike Rule 32-E, which governs the assignment of overtime work that is not part of any regular assignment, the Organization must first prove systemwide exclusivity over work covered by Rule 32-G. Third Division Award 27569. Rule 32-E was not raised on the property and, therefore, this Board may not consider the Organization's Rule 32-E arguments for the first time on appeal.

With regard to Rule 32-G, the Organization failed to muster sufficient proof that clerical employees exclusively performed the disputed work on a systemwide basis. Regardless of whether or not Claimant historically performed the work at the Kansas City shops, the record does not contain sufficient evidence that the disputed work is performed across the Carrier's system by clerical employees. Furthermore, it is highly likely that local chairmen for the various shop craft labor organizations are intimately involved in the movements of their members from job to job under the displacement and assignment rules in their Agreements.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: 
Nancy J. Bever - Executive Secretary

Dated at Chicago, Illinois, this 3rd day of February 1993.