

NATIONAL RAILROAD ADJUSTMENT BOARD
FOURTH DIVISION

Award No. 3010
Docket No. 2920

Referee Robert M. O'Brien

PARTIES TO DISPUTE: Railroad Yardmasters of America
Penn Central Transportation Company

STATEMENT OF CLAIM: Claim and request of Railroad Yardmasters of America:

SYSTEM DOCKET 393
CHICAGO TERRITORY - TOLEDO CASE YM-17-70

Claims of Yardmaster W. Winchester for five and one-half (5 1/2) hours overtime for December 11, 1969, and January 3, 1970, account Yard Clerks at Elyria doing Yardmaster's work after his tour of duty.

OPINION OF BOARD: This is a Scope Rule dispute wherein the Organization contends that on the claim dates clerks at Elyria Yard performed yardmaster duties after claimant had completed his tour of duty and left the property. The Organization says claimant should have been used to perform this work.

The work in question appears not to be in dispute since the parties agreed to a Joint Statement of Facts. Said Statement reveals that no yardmasters are regularly assigned on second or third tricks at Elyria Yard, so between 3:00 P.M. and 7:00 A.M. the Chief Dispatcher at Toledo controls Elyria Yard. On December 11, 1969, this Chief Dispatcher ordered NYC 499001 to be switched out of the South Lorain cars and added to the PLE pickup. He gave this information to the yard clerk who relayed the information or instructions to the Conductor on the Elyria Yard job. On January 3, 1970, the Chief Dispatcher phoned the Yard Clerk at Elyria for assignment of track for Local 646, which was relayed to the Conductor on Local 646 by the Yard Clerk. No yardmaster was assigned on either date at the time the instructions were issued. The question for this Board to decide is whether the aforementioned work is work which rightfully belongs to the yardmasters craft?

The record compels us to the conclusion that the work complained of is not work accruing to yardmasters. We agree with Carrier that the only supervisory work performed was performed by the Chief Dispatcher who, both sides agree, was in charge of the yard when the instructions were issued. All the yard clerks did was to relay the instructions from the recognized supervisor of the yard to the Conductor of the Elyria Yard job and the Conductor on Local 646. No discretion on supervision was exercised by the clerks nor did they perform any duties recognized as belonging to yardmasters. All they did was relay instructions from the Chief Dispatcher and nowhere in the record has it been shown that such work belongs to yardmasters either by the Yardmasters Agreement or by past practice on this property. Since the Organization had the burden of proving such, and since they have failed to sustain this burden, the claim must be denied.

FINDINGS:

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

The carrier and the employes involved in this dispute are respectively carrier and employe 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.

The parties to said dispute waived right of appearance at hearing, but were granted privilege of appearing before the Division with Referee sitting as a member thereof, to present oral argument.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Fourth Division

ATTEST: Executive Secretary
National Railroad Adjustment Board

By


Assistant Executive Secretary

Dated at Chicago, Illinois, this 6th day of December 1973