

NATIONAL RAILROAD ADJUSTMENT BOARD
FOURTH DIVISIONAward Number 3913
Docket Number 3945

Referee Martin F. Scheirman

PARTIES TO DISPUTE: Allied Services Division/Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees

The Baltimore and Ohio Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (P-91) that:

- (1) The Carrier violated the Agreement especially Rules 1, 28 among others when it failed to call J. D. Dugger to perform Patrolman's duties on January 23, 1979.
- (2) The Carrier shall now compensate said J. D. Dugger eight (8) hours pay at the punitive rate.

OPINION OF BOARD: Claimant, James D. Dugger, was regularly assigned to a patrolman position in Cincinnati, Ohio. His regular schedule is Wednesday through Saturday with Monday and Tuesday as rest days.

Carrier was experiencing a theft problem from the Kroger Food Company's Woodlawn Storage Track and Ivorydale Yards. On January 23, 1979, Lieutenant W. E. Bell observed activities at the Kroger Storage while he was in the vicinity.

The Organization contends that such "~~surveillance~~ work" has historically been patrolman work on the property. For this reason, it alleges that Carrier violated the Scope Rule when it allowed Lieutenant Bell to perform patrolman work. It asks that Dugger, who was on a rest day and available for duty, be paid eight (8) hours at the punitive rate.

Carrier disputes that Bell performed duties exclusively assigned to patrolmen. Instead, it argues that Bell only performed functions which he would have performed whether patrolmen are on duty or not on duty.

After analyzing the rules that are alleged to have been violated, we are persuaded that the claim is without merit.

There is simply no record evidence to support the view that Bell performed any functions other than what a Lieutenant would normally and ordinarily perform. His action on January 23, 1979, must be viewed as those that are generally part of the Lieutenant functions.

Moreover, Rule 1, Scope, and Rule 28, Overtime, do not provide the needed Agreement support. Stated simply, the Organization's claim must be denied due to a lack of proof of an Agreement violation.

FINDINGS:

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

The Carrier and the Employees involved in this dispute are respectively Carrier and Employees 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 were given due notice of hearing thereon.

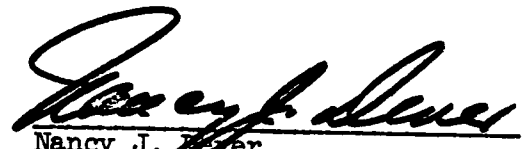
The parties to said dispute waived right of appearance at hearing thereon.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Fourth Division

ATTEST:


Nancy J. Sever
Acting Executive Secretary

Dated at Chicago, Illinois, this 6th day of May 1982