

Award No. 1685
Docket No. CL-1683

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Sidney St. F. Thaxter, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES**

GULF COAST LINES

**INTERNATIONAL-GREAT NORTHERN RAILROAD
COMPANY**

SAN ANTONIO, UVALDE & GULF RAILROAD COMPANY

SUGARLAND RAILWAY COMPANY

ASHERTON & GULF RAILWAY COMPANY

(Guy A. Thompson, Trustee)

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

"(a) The carrier violated the Clerks' Agreement on August 24, 1940 when it discontinued the position of Secretary to the Industrial Agent at Harlingen, Texas, and assigned the work to a position in another seniority district, also

"(b) Claim that B. O. Smith be restored to the position and compensated at the full rate of the position from August 26, 1940 until the agreement violation is corrected."

There is in evidence an agreement between the parties bearing effective date of April 1, 1939.

JOINT STATEMENT OF FACTS: "On August 24, 1940, and prior thereto, Mr. B. O. Smith was assigned to the position of Secretary to the Industrial Agent at Harlingen, Texas. That position is covered by the Clerks' Agreement and is a part of the Land and Industrial Agents' Seniority District.

"At the close of business on Saturday, August 24, 1940, the carrier discontinued Mr. Smith's position and assigned the duties thereof to an employe who holds no seniority rights in that seniority district."

POSITION OF EMPLOYES: "The following rules were in effect on August 24, 1940 and are applicable in this case:

Rule 3. Seniority Datum.

"Employes designated in Classes 1 and 2 of Article 1 who have been in service sixty (60) days shall be considered as permanently employed and their seniority will begin on the date their pay starts in their seniority district.

whose positions come under the scope of the Clerks' Agreement, there was no violation of said Agreement and your Honorable Board is respectfully petitioned to decline the claim."

OPINION OF BOARD: This is a joint submission. The facts which have been agreed to show that B. O. Smith was assigned to the position of Secretary to the Industrial Agent at Harlingen, Texas, a position covered by the Clerks' Agreement and included in the Seniority District of the Land and Industrial Agent. On August 24, 1940, the Carrier discontinued the position and assigned the duties thereof to an employee holding no seniority rights in that seniority district.

There is nothing in the record to indicate that the Carrier was not within its rights in abolishing the position and the claim that the employee should be restored to it must be denied. See Award 1611.

It is well settled, however, that a Carrier in discontinuing a position, not only may not assign the work to those outside the scope of the agreement, but is not permitted to assign it even to those covered by the agreement if they hold seniority rights exclusively in another seniority district. In assigning the duties of Mr. Smith to employees in another seniority district, the Carrier violated the agreement. Awards 610, 612, 752, 753, 756, 975, 1403, 1440, 1611.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the carrier and the employee involved in this dispute are respectively carrier and employee 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 carrier violated the agreement by assigning the duties of the discontinued position to employees holding seniority rights in another seniority district, and is required to make reparation to the employee, B. O. Smith, for any wage loss sustained subsequent to August 24, 1940, and until violation is corrected.

AWARD

Claim (a) sustained insofar as it relates to the reassignment of the work to employees in another seniority district.

Claim (b) for B. O. Smith sustained for wage loss until violation is corrected.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 19th day of January, 1942.