

Award No. 1733
Docket No. CL-1812

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Edward M. Sharpe, Referee

PARTIES TO DISPUTE:

**THE AMERICAN RAILWAY SUPERVISORS'
ASSOCIATION, INC.**

**THE CHICAGO AND NORTH WESTERN RAILWAY
COMPANY**

(Charles M. Thomson, Trustee)

STATEMENT OF CLAIM: Claim of the System Appeals Committee and request that:

1. The carrier has violated and continues to violate the agreement by abolishing the position of Assistant Storekeeper at Madison, Wisconsin, on June 9, 1938, and assigned the supervisory duties connected therewith to other employees outside the scope of the agreement; and

2. That the carrier shall be required by appropriate award and order to restore said supervisory duties of the class to an assistant storekeeper or local storekeeper position within the scope and operation of the effective agreement; and

3. That employees adversely affected by the carrier's arbitrary action shall be reimbursed for all wage losses sustained retroactive to June 9, 1938.

There is in evidence an agreement between the parties bearing effective dates of August 1, 1936, January 1, 1939, and January 1, 1941.

EMPLOYEES' STATEMENT OF FACTS: There is an effective agreement in existence between the parties, said agreement is dated and last amended effective January 1, 1941, and the claim herein presented arises out of and is based upon the provisions of the Scope Rule No. 1 (a), and the terminating clause Rule No. 19.

For the purpose of this particular dispute we hereby stipulate the exact wording of the Rules that it is contended are applicable to the action of the carrier abolishing positions arbitrarily, and removing the work from the scope and operation of the extant agreement:

"SCOPE

1. These rules, amended effective January 1, 1941, will govern working conditions of the following classes of supervisory employees on the Chicago and North Western Railway:

(a) Store Department

1. Local storekeepers

2. Assistant storekeepers

* * * * *

It is the position of the railway company that the discontinuance of position of assistant storekeeper at Madison in circumstances outlined above was not in violation of the provisions of any schedule rule or agreement with the supervisors' association, and that the claim as submitted to the Board in this case cannot properly be sustained.

OPINION OF BOARD: The record in this case shows that the position of assistant storekeeper was placed within the scope of the agreement on August 1, 1936 and discontinued on June 9, 1938. The supervisory duties were removed from the scope and operation of the agreement and assigned to the position of leading material handler and to the position of division storekeeper, neither position being within the purview of the agreement.

It is the position of the Carrier that Madison, Wisconsin is a division point at which the Carrier maintained a division storehouse under the direct charge and supervision of a division storekeeper. Prior to June 9, 1938, the consumption of material and supplies which were issued through this Madison storehouse was of such volume as to warrant the employment of an assistant storekeeper to assist the division storekeeper in his work. Subsequent to June 9, 1938, due to transferring of work from Madison to other points on the line, the store department requirements at Madison decreased to the point where the position of assistant storekeeper was no longer justified, and it was discontinued.

It is the position of the Employees that there is nothing in the record of this case to show that the duties of the position in question were any different on June 9, 1938, when it was discontinued, than when it was placed within the scope and operation of the applicable agreement on August 1, 1936.

It is an unquestioned fact that the Carrier assigned certain supervisory duties to employees outside the scope of the agreement and in so doing violated the agreement. The principle involved in this case is the same as in Award 1729, Docket CL-1808.

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 Employees involved in this dispute are respectively Carrier and Employees 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 applicable agreement as claimed by the Petitioner.

AWARD

Claim (1, 2, and 3) sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 27th day of February, 1942.