

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 local storekeeper in June 1940, having charge of stores located at Chicago Ave., Roundhouse, Erie Street Coach Yard, North Western Express Terminal, State Street District all in Chicago, Illinois 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 a 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 1940.

There is in evidence a collective 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.

* * * * *

retain the position and permit the incumbent to continue to perform work of that class. Such a contention would involve a jurisdictional question as between the supervisors' organization and the clerks' organization.

The employees in notice of October 23, 1941 advising the Third Division, National Railroad Adjustment Board, of their intention to make ex parte submission to the Board on this case, state the Scope Rule 1 (a) and last paragraph of rule 19, supervisors' agreement, were violated when position of local storekeeper at Chicago Avenue was abolished. Rule 1 (a) lists the class of positions in store department coming within the scope of supervisors' agreement. The concluding paragraph, supervisors' agreement, refers to changes in the provisions of the agreement. The provisions of rules 1 (a) and concluding paragraph, supervisors' agreement, are not involved in this case. The railway company concedes that positions of local storekeepers are of a class coming within the scope of supervisors' agreement, and at points such positions are maintained as a result of service requirements the incumbents are compensated under provisions of rules in that agreement. Further, the abolishment of position of local storekeeper at Chicago Avenue did not involve amendment, revision or annulment of any rules in supervisors' agreement.

It is the position of the railway company that the discontinuance of position of local storekeeper at Chicago Avenue 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: On January 1, 1939 the position of local storekeeper, having charge of stores located at Chicago Avenue roundhouse, Erie Street coach yard, North Western Express Terminal and State Street District, all in the City of Chicago, was placed within the scope of the agreement. On June 21, 1940 the position was discontinued and the supervisory duties assigned to position of leader 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 prior to June 21, 1940, the Carrier maintained a storehouse at Chicago Avenue roundhouse under the supervision of a division storekeeper. This division storekeeper also had direct charge and supervision of the store department activities at Erie Street coach yard (which is adjacent to the Chicago Avenue roundhouse), at North Western Express Terminal, and at the State Street District. At the Chicago Avenue store department the force consisted of the following employees in addition to the division storekeeper:

- 1 stock clerk,
- 2 order fillers,
- 3 material handlers;

at Erie Street coach yard the force consisted of:

- 1 order filler,
- 2 material handlers;

all of the above positions were covered by the Clerks' Agreement. There were no store department employees located at either State Street or North Western Express Terminal.

The volume of material and supplies issued was such as to justify the employment of a local storekeeper to assist the division storekeeper, who was assigned some supervisory duties. His preponderating duties, however, consisted of taking stock at Erie Street coach yard and North Western Express Terminal, making up orders for material at Chicago Avenue, Erie Street coach yard, and the Express Terminal, handling the ordering and unloading of fuel oil for locomotives in yard service at State Street, and also compiling various store department reports.

In the reorganization of the stores department, it was found that due to changed conditions the volume of material and supplies issued had decreased to the point where the assistance accorded to the division storekeeper by the local storekeeper was no longer required, and the position of local storekeeper was abolished.

It appears that after the Carrier abolished the position certain of its duties remained and were assigned to other employees outside the scope of the agreement. Such action was a violation of the agreement. The principle involved in this case is the same as in Award 1729, Docket CL-1808 and is governed thereby.

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 current 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.

Dissent to Award 1734, Docket CL-1813

The error of this award arises from failure to acknowledge the right of the Carrier to have supervisory and other employees, covered or not covered by agreements, assume the performance of work incident to their positions.

/s/ C. P. Dugan

/s/ R. F. Ray

/s/ C. C. Cook

/s/ A. H. Jones

/s/ R. H. Allison