

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 at Norfolk, Nebraska and Fremont, Nebraska, subsequent to March 1, 1940, 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 March 25, 1940.

There is in evidence a collective agreement bearing effective dates of August 1, 1936, January 1, 1939 and January 1, 1941.

EMPLOYES' 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.
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storekeeper in charge eliminated the necessity for continuing position of local storekeeper at that point. The entire force in the store department at Norfolk, exclusive of the division storekeeper, is as follows:

- 1 Supply Train Storekeeper (comes within scope of supervisors' agreement)
- 1 General Clerk
- 1 Stock Clerk
- 1 Leader Material Handler
- 5 Material Handlers
- 1 Motor Truck Operator
- 1 Material Crane Operator

The material handling crew is in charge of and works under the direction of the leader material handler, which position has been established since store department division headquarters were established at Norfolk. The position of leader material handler, which comes within the scope of clerks' agreement, is properly placed in charge of the material handling crew and to reestablish position of local storekeeper to perform the work now assigned to the leader material handler would be in violation of the provisions of clerks' agreement and involve a jurisdictional dispute with that organization. Further, the assignment of all of the general supervisory duties to the division storekeeper in charge at Norfolk is entirely proper. At a number of points on this railway we do not have positions of local storekeeper and it is understood that where requirements justify, as is the case at Norfolk, the division storekeeper will take care of all of the general supervision of store department forces.

At Fremont the stock clerk is the only store department employe and is performing only work of a class coming within the scope of clerks' agreement. We could not discontinue this position and assign the work to a local storekeeper. To do so would be in violation of the provisions of our clerks' agreement.

The employes 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 rule 19, supervisors' agreement, were violated when positions of local storekeepers at Norfolk and Fremont were abolished. Rule 1 (a) lists the class of positions in store department coming within the scope of supervisors' agreement. The last paragraph of rule 19 refers to changes in the provisions of the agreement. The provisions of rules 1 (a) and last paragraph of rule 19, 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 positions of local storekeepers at Norfolk and Fremont did not involve amendment, revision nor annulment of any rules in supervisors' agreement.

It is the position of the railway company that the discontinuance of positions of local storekeepers at Norfolk and Fremont in circumstances outlined above was not in violation of the provisions of any schedule rules or agreements with the supervisors' association, and that the claim as submitted to the Board in this case cannot properly be sustained.

OPINION OF BOARD: The facts in this case are not in dispute. The local storekeepers at Norfolk and Fremont, Nebraska were covered by the agreement as amended January 1, 1939. On November 1, 1939 the position at Norfolk was discontinued and the supervisory duties were assigned to division storekeeper. On March 25, 1940 the position at Fremont was discontinued and all of the supervisory duties ceased because the work had been removed to Norfolk. It is agreed that the Carrier was within its

rights in discontinuing the position at Fremont. The record sustains the claim that after November 1, 1939 there were certain supervisory duties remaining at Norfolk.

It is the position of the Carrier that Norfolk, Nebraska is a division point with a division storekeeper in charge, who, in the performance of his duties, had the assistance of a local storekeeper because of the large volume of material and supplies consumed at that point prior to about March 1, 1940. Subsequent thereto, due to transferring certain classes of repairs from Norfolk to other points, in pursuance of the Carrier's policy of centralizing its maintenance and construction of locomotives and cars, the volume of material and supplies consumed at that point decreased to the point where the division storekeeper no longer required the assistance of a local storekeeper, and the position of local storekeeper was abolished.

The organization at Norfolk as established as a result of the reorganization consists of the following:

- 1 Division Storekeeper in direct charge of all activities,
- 1 Supply Train Storekeeper,
- 1 Clerk,
- 1 Stock Clerk,
- 1 Leader Material Handler,
- 5 Material Handlers,
- 1 Motor Truck Operator,
- 1 Material Crane Operator,

a total of 12 employees, including the division storekeeper, 8 of whom comprise the organization handling the material and come under the supervision of the leader material handler.

The supply train storekeeper is a traveling position handling supply cars and distribution of supplies therefrom to local stations in the division.

It is the position of the Employees that the Carrier breached the agreement in discontinuing the position at Norfolk. We are in accord with the position of the Employees. It is undisputed that after the position was discontinued there still remains certain supervisory duties.

The principle involved in this case is the same as in Award 1729, Docket CL-1808 and is controlled by the rule enunciated therein.

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 by arbitrarily abolishing the position of local storekeeper at Norfolk, Nebraska, and removing the supervisory duties thereof from the scope and operation of the applicable agreement.

AWARD

Claim sustained with respect to the supervisory duties of local storekeeper at Norfolk; denied as to the position at Fremont.

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 1736, Docket CL-1815

The error of this award arises from failure to acknowledge the right of the Carrier to have supervisory and other employes, 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