

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Herbert B. Rudolph, Referee

PARTIES TO DISPUTE:

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

HOUSTON BELT & TERMINAL RAILWAY COMPANY

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

(a) The carrier violated the Clerks' Agreement by abolishing position of Assistant Line Desk Clerk on Wednesday, May 7, 1941. Also

(b) Claim that employes involved in or affected by the Agreement violation be compensated for all losses sustained.

EMPLOYEES' STATEMENT OF FACTS: On Wednesday, May 7, 1941, and prior thereto, Mr. W. L. Wine held position of Assistant Line Desk Clerk. The position was assigned and worked seven days per week.

On Monday, May 5, 1941 Bulletin No. 16 was issued advising that the position of Assistant Line Desk Clerk, held by Mr. Wine, would be abolished effective with termination of assignment on Wednesday, May 7, 1941.

During the week in question the position worked on Sunday, Monday, Tuesday and Wednesday, a total of four days.

POSITION OF EMPLOYES: Rule 48 of our Current Agreement reads as follows:

"(a) Employees covered by Groups one (1) and two (2) of this agreement shall be paid on a monthly basis. Employees covered by Group three (3) of this agreement shall be paid on an hourly basis. The conversion of present rates to a monthly or hourly basis shall not operate to establish compensation either more or less favorable than is now in effect.

"(b) Nothing in this agreement shall be construed to permit the reduction of work days below six (6) per week, except this number may be reduced in a week in which one of the seven holidays specified in Rule 47 occurs to the extent of such holiday.

"(c) Employees who are short an amount equal to one day's pay will be given a time voucher within three (3) days on request."

We direct your attention to the specific provisions of paragraph (b) which definitely prohibits the "reduction of work days below six (6) per week," unless one of the holidays named in Rule 47 occur during the week.

The following calendar diagram covers the week in question and discloses that the position of Assistant Line Desk Clerk worked only four days during the week in question:

that it involves the payment of the employee for Thursday, Friday and Saturday, the position having been discontinued on Wednesday, the contention being that positions can only be abolished after the day's work has been completed on Saturday.

Rule 19 (a) as contained in the current schedule with the Clerks' Organization reads as follows:

"(a) Regular assigned employees affected in reduction of force shall be notified at least three (3) days in advance of the effective date reduction is to be made and employees affected will be paid up to the end of that period. When reducing forces seniority rights shall govern. Employees whose positions are abolished may exercise their seniority over junior employees. Other employees affected may exercise their seniority in the same manner. Employees displaced whose seniority entitles them to regular positions shall exercise their seniority within ten (10) days. Employees exercising seniority by displacement must give at least 24 hours advance notice to the proper official and the employee to be displaced with a copy to Local Chairman."

Rule 48 (b), as contained in the current Agreement with the Clerks' Organization, reads as follows:

"(b) Nothing in this Agreement shall be construed to permit the reduction of work days below six (6) per week, except this number may be reduced in a week in which one of the seven holidays specified in Rule 47 occurs to the extent of such holiday."

Rule 19 is titled, "Reducing Force" and Section (a) of that rule, it will be noted, provides that regularly assigned employees affected in reduction of force shall be notified at least 3 days in advance of the effective date reduction is to be made and employees affected will be paid up to the end of that period. Rule 19 (a) was strictly complied with, as the employee affected was notified on May 5 that his position would be discontinued at the end of his shift May 7. There is nothing in the rule which provides that positions will be abolished on any specified day of the week or month, but that a position may be abolished at any time by giving the employee affected three days notice and paying him to the end of that period.

Rule 48 (b) guarantees to employees whose positions are in effect an assignment of not less than six days per week and so long as their position is in effect under that rule, their days cannot be reduced below six per week. In other words, the Carrier would not, under that rule, be privileged to reduce the working days of the week to five or any other number of days less than six per week. When an employee's position has been abolished under Rule 19, Rule 48 (b) does not apply.

It is the contention of the Carrier that in the abolishing of the position of Assistant Line Desk Clerk, the Agreement with the Organization was strictly complied with and your Honorable Board is respectfully petitioned to so rule.

OPINION OF BOARD: The facts disclose that carrier abolished the position of assistant line desk clerk, effective at the end of work on Wednesday, May 7, 1941.

The Claimant contends that under Rule 48 (b) of the Agreement, Carrier is not privileged to abolish a position at such a time that the work days will be reduced below six for the week during which the position was abolished. Rule 48 (b) reads: "Nothing in this agreement shall be construed to permit the reduction of work days below six (6) per week, except this number may be reduced in a week in which one of the seven holidays specified in Rule 47 occurs to the extent of such holiday." Claimant's contention, in our opinion is without merit. We think it clear that the guarantee contained in Rule 48 (b) runs to an employee assigned to a position, and is not a guarantee that the position will be worked six days a week. Rule 19 (a)

confirms this construction. This rule simply provides for three days' notice on reduction of force and payment to the end of the three-day period. The Carrier complied with this rule.

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 Employes involved in this dispute are respectively Carrier and Employes 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 record discloses no violation of the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 17th day of April, 1942.