

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Curtis G. Shake, Referee

PARTIES TO DISPUTE:

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

THE ERIE RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees that:

1. The carrier violated and continues to violate the Clerks' Agreement dated September 1, 1936, when it failed and refuses to bulletin positions of Caboose Supply Stockkeeper at Marion, Ohio, to employees covered by the Clerks' Agreement, and
2. That the carrier shall now bulletin, award and assign positions of Caboose Supply Stockkeeper to senior qualified applicant, and
3. That such senior applicant and any others affected shall be reimbursed for wage loss suffered retroactive to April 30, 1943.

EMPLOYEES' STATEMENT OF FACTS: On or about June 4, 1937 two positions were established in the yard at Marion, Ohio and carried on General Yardmaster payroll as laborers. These positions were never advertised to any class or craft of employees and they are not carried on any roster. Due to remoteness of these positions from other yard positions, it was difficult to obtain a line-up of duties connected therewith. Investigation developed that an empty box car was spotted on track next to track on which cabooses used in pool service were spotted. The employees classified as laborers maintained a supply of material, forms and supplies in this box car so that cabooses could be properly serviced. During the summer of 1943 a small building was moved along side of a siding in the East Yard and renovated so that it is now used as a storeroom where the supplies are stored and where these men have their headquarters. Cabooses are now spotted on the siding and Caboose Supply men service them. The following items are kept on hand at the storeroom.

Oil	Red Flags	Pipe Wrenches
Oil Cans	Torpedoes	Cushions
Waste	Fuses	Hot Box Compound
Lanterns	Air hose	Hammers
Lantern Globes	Break Clubs	Brooms
Lantern Wicks	Air Hose Gaskets	Shovels
Side Lamps	Dope	Water Cans
Markers	Packing Irons	Cooling Cans
30 Inch Steelbar	Soap	Toilet Paper
Paper Towels	Drinking Cups	

locations are the employees classed as cabooses stockkeepers and it is obvious that this alleged dispute has been progressed to the Third Division by the Brotherhood in an attempt to have the Third Division by an award reclassify and place within the scope of Rules and Regulations effective September 1, 1936 positions which are not now and never have been included within the scope.

The claim at Meadville, Pa. originated September 13, 1940, approximately four years after the positions were established at that point and the original request was that these positions of caboose supply men should be carried on the clerks' roster coming under the heading of Roster "B" employees, which covers other than clerks in the Operating Department and there was no request at that time that the positions be reclassified to "Caboose Supply Stockkeepers" and placed under jurisdiction of Stores Department. Almost six months later the General Chairman changed the original basis of the request and then progressed his request for reclassification of the position to caboose stockkeeper.

This Marion, Ohio claim originated April 30, 1943 while the Meadville claim was still being pressed.

The work of these laborers is not of a nature that would justify reclassification to a stockkeeper as such laborers do not have any of the responsibilities of a stockkeeper and are not in any way supervised nor do they report to the Stores Department.

The incumbents of these positions from the time they were first established in 1937, to and including the present time, do not have the fitness and ability to perform the work of a stockkeeper and were not employed for such purpose.

This claim should be denied by the Third Division for the following reasons:

1. Only labor and incidental work is performed and no special skills are required.
2. Prior to pooling of cabooses the principal duties of these laborers were performed by the crew assigned to the caboose.
3. This work at Marion, Ohio has never been performed by employees covered by Rules and Regulations September 1, 1936. When laborers were employed for this work they took no work from other employees covered by Rules and Regulations September 1, 1936.
4. In this claim the Brotherhood has not at any time cited any specific rule on which to base their claim. In fact there is no rule in Rules and Regulations September 1, 1936 which would support such a claim as is here presented.
5. Rules and Regulations September 1, 1936 are not applicable to these laborers.
6. Claim is not supported by any negotiated rule or other agreed practice.
7. Work performed by these laborers is not work belonging exclusively to any particular class of employee. At the various locations on the railroad where this work is done it is performed by different employees depending upon availability, usually incidental to other work.

OPINION OF BOARD: The petitioner says that the carrier's employees at Marion, Ohio, classified by it as caboose attendants, are, in fact, "sectional storekeepers," "stockkeepers" or "others performing similar work," within the meaning of Group 1; or that they are "storehouse forces such as power truck operators, chauffeurs, furnacemen, crane engineers, laborers and others performing similar work in connection with any of these operations," within

the contemplation of Group 2, Rule 1 of the effective Agreement of September 1, 1936, (Our emphasis). To narrow the issue, the petitioner has the burden of establishing that the employes here involved are stockkeepers, sectional storekeepers, members of storehouse forces, or those engaged in performing similar work, as those positions were understood by the parties when they entered into the Agreement. In other words, "stockkeepers," "storekeepers" and "storehouse forces" are the generic terms which characterize the employments referred to in the rule. According to the dictionaries and as popularly understood, storerooms or storehouses are places where articles, goods or supplies are stored, kept or laid up in reserve against future need. That railroads generally have such facilities is a matter of common knowledge. The question here is whether the employes referred to above are engaged in the maintenance or operation of such a place.

It appears that it was formerly the carrier's practice to regularly assign cabooses to specific train crews, the members of which cleaned the cabooses assigned to them and requisitioned whatever supplies and equipment were needed from storehouses on orders issued by the trainmasters. In June, 1937 the carrier changed the above practice by requiring that cabooses not in actual operation be pooled at certain designated points, one of which was at Marion, Ohio, from which they are taken out indiscriminately by train crews as and when needed. Simultaneously, the carrier discontinued the practice of requiring crew members to clean and supply cabooses and assigned this work to laborers not under the Agreement, whom it designated as caboose attendants.

For some six years the caboose attendants used an empty box car, which the carrier had spotted near their place of work, as a storage place for materials, supplies and forms needed by them from time to time in servicing cabooses, but in 1943 the company replaced said box car with a small building, which the attendants also use as their headquarters. Supplies are sent to said building by the Division Storekeeper or from the Trainmaster's or Yardmaster's offices upon receipt of telephone or memorandum requests from the attendant occupying the first trick. No record or inventory is maintained by the attendants with respect to such supplies and no accounting is involved. The attendants are classified as laborers and are subject to the general supervision of the Yardmaster.

When the facts of this case are applied to what the parties must have had in mind when they entered into the agreement, we are obliged to conclude that the carrier's caboose attendants are not stockkeepers, sectional storekeepers or storehouse forces within the scope of Rule 1. Said employes' primary duties are to clean and supply cabooses. Their responsibilities with reference to caring for materials are purely incidental to said duties. Almost every laborer on a railroad is at some time or other entrusted with the care and safekeeping of some company equipment or material. The fact that the carrier may establish a place where such material may be temporarily kept before it is actually put in use does not, in our judgment, constitute such place a storeroom or a storehouse within the scope of the Agreement. To hold otherwise would afford a basis for treating practically every employe as a stockkeeper or a member of a storehouse force. We think there is a clear distinction between a situation where an employe is charged with the responsibility of preserving, keeping a record of, and releasing or distributing material upon proper orders, and one where the employe is merely entrusted with material in advance of the time when he, himself, is to put it into use or service.

The petitioner is not aided by the phrases, "others performing similar work," twice found in Rule 1. Such expressions cannot have the effect of broadening the definitions of which they are a part, to the extent of embracing wholly dissimilar subjects.

Our conclusion is in harmony with the result reached in Award 2551, involving the same Agreement and facts almost identical, though it is urged

on behalf of the petitioner herein that the opinion in that case discloses a misconception of the real issue there involved. That opinion does, perhaps unnecessarily, emphasize that the petitioner therein failed to satisfactorily establish that the employes were "caboose supply storekeepers." The substantial question was there, as it is here, whether the employes were within the scope of the Agreement, and the title ascribed to them was and is unimportant. We think, however, that the author of Award 2551, was fully cognizant of the controlling issue, because he positively asserted that the employment "was not work incidental to the ordinary functions of the position of stockkeeper." With that we are in accord, for the reasons heretofore stated.

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 parties waived oral hearing thereon;

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 carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 28th day of July, 1944.