

Award Number 3093
Docket Number CL-3076

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Edward F. Carter, Referee

PARTIES TO DISPUTE:

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

THE OGDEN UNION RAILWAY AND DEPOT COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees that The Ogden Union Railway and Depot Company and/or its officers violated the terms of the existing agreement between the parties by:

(a) Creating two positions of Matron on the property of the Company in the Dormitory of the Union Station at a monthly rate of \$125.00 approximately sixteen months ago, without regard or consequence of the existing agreement with this Brotherhood; and

(b) The Company shall now recognize these two positions totally within the purview of our schedule agreement; shall establish a daily rate based on \$125.00 per month, plus proper wage adjustment made subsequent to the date of establishing the positions; and

(c) The Company shall retroactively reimburse the regular incumbents of these positions full wage loss suffered for failure to apply proper clerical schedule provisions.

EMPLOYEES STATEMENT OF FACTS: On or about November 1, 1942 the Ogden Union Railway and Depot Company, set up an employee's dormitory to house, as living quarters or a hotel, switchmen and/or other employees of the railroad who were unable to find other housing in this area, and with but an occasional exception, persons utilizing this service are employees of the Ogden Union Railway and Depot Company.

The Space utilized is upstairs over the Electricians' Department and over the Railway Express Company, in a building commonly known as the Station Annex, the space used by the Express Company being leased and operated by themselves, all other space of this building which is on the property of the Depot Company and abutting within twenty feet of the Passenger Station, is owned, operated, managed and controlled in every respect by the Ogden Union Railway and Depot Company and Mr. R. E. Edens, Superintendent of that Company.

Concurrent with the establishment of this service the Depot Company created two positions of "Matron" to take care of all the housekeeping detail along with some of the management of this facility, subject to and under the supervision of Mr. Edens, Superintendent.

OPINION OF BOARD: In November, 1942, the Carrier converted some upstairs rooms in its Union Passenger Station into sleeping quarters for employees of the Union Pacific, the Southern Pacific and itself. The Carrier placed two women in charge of these living quarters and designated them as Matrons. The Organization contends that these positions are within the scope of the Clerks' Agreement. This, the Carrier denies.

Whether the positions are within the Clerks' Agreement depends upon the construction to be given to the Scope Rule of that Agreement and the duties assigned to the positions in question. Briefly stated, the Clerks' Agreement includes (a) clerks, (b) other office, station and store employees, and (c) janitors and laborers employed in and around offices, stations, storehouses and warehouses. It is clearly intended that all work that would logically fall under these three heads, except for work specifically excluded and positions excepted therefrom, is within the scope of the Clerks' Agreement. The chief question is the determination of the duties of these two positions and a further determination as to whether their duties are such as to logically bring them within one of the classifications mentioned in the Scope Rules.

The establishment of the sleeping quarters in the passenger station was made necessary because of an existing housing shortage. It is evident that the Carrier was obliged to provide these quarters to insure the proper operation of its business. In other words, they were a facility set up for the convenience of its employees and the protection of the Carrier.

Claimants were placed in charge of the sleeping quarters. They were required to keep a hotel registry sheet for each day and night. They were required to keep records of cash collected and to file reports thereof regularly. They were also required to keep records of employees who desired to make compensation by pay-roll deduction and to file reports daily covering such transactions. They were required to collect cash deposits on room keys and to obtain receipts for such deposits when the keys were returned. They were also required to change the linen on the beds and see that the room was kept in a tidy condition. The mopping of floors and cleaning of wash bowls, toilets, etc. was no part of their work, janitor service being provided. Claimants were also charged with keeping order at all times.

We think that when the Carrier found it necessary to establish this dormitory for its employees in its passenger station to facilitate its business, it brought those in charge within that portion of the Scope Rule in the Clerks' Agreement which specifies "other office, station and store employees." This position is fortified by the fact that there are no exclusions or exceptions in the Scope Rule that in any manner affects these positions. The Scope Rule of the Clerks' Agreement had its origin in the National Agreement following federal control after the first World War. The United States Railroad Labor Board, then empowered to make interpretations, held in Decision No. 38 that Matrons were within the class designated as station attendants and within the scope of the Clerks' Agreement. It will be presumed of course that in re-adopting the rule in the current Agreement, the parties intended the language to mean the same then as it had meant before, including interpretations known to the parties when it was readopted. Whether the position of "Matron" as there used was similar to the positions so entitled in the confronting claim does not appear of controlling importance other than that it shows that the Scope Rule should be liberally interpreted to include all employees coming within its general terms unless their duties have been excluded or their positions excepted from the operation of the Agreement by appropriate language. See Award 2830.

We think the positions here involved are within the Clerks' Agreement whether or not the Carrier exercised a proper choice of title in designating them as "Matrons." The descriptive language contained in Section (b) of the Scope Rule, to-wit: "... such as office boys, messengers, chore boys, train announcers, gatemen, checkers, baggage and parcel room employees, train and engine crew callers, operators of office or station equipment devices, telephone switchboard operators, and office, station and warehouse watchmen," has no

limiting effect. It indicates the broadness of the scope of the Agreement. Clearly it would seem reasonable that the contract writers intended to include such positions as we have before us. They fall within the wide range indicated by the varied positions named to describe in a general way all the positions intended to be covered.

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 contended by Claimant.

AWARD

Claim (a, b and c) sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson,
Secretary.

Dated at Chicago, Illinois, this 29th day of January, 1946.