

Award No. 4943
Docket No. CL-4843

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Edward F. Carter, Referee

PARTIES TO DISPUTE:

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

THE PITTSBURGH & WEST VIRGINIA RAILWAY COMPANY

STATEMENT OF CLAIM: The Pittsburgh & West Virginia System Board of Adjustment No. 245 of the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees claim that:

A. The Carrier violated the rules of the Clerk's Agreement when, effective May 9, 1946, it arbitrarily abolished the position of Clerk-Stenographer, Chief Special Agent's Office, Seniority District No. 4, and transferred the work of this position to a clerical employee in the Real Estate & Freight Claim Agent's Office, Seniority District No. 2, a different Seniority District.

B. The work attached to the position of Clerk-Stenographer in the Chief Special Agent's Office, Seniority District No. 4, as it existed prior to May 9, 1946, be returned thereto and that Miss Rose Mackanich, who was displaced as a result of Carrier's abolishing position of Clerk-Stenographer, Chief Special Agent's Office, Seniority District No. 4, be compensated for all wage losses sustained as a result of Carrier's arbitrary action from May 9, 1946 to date position of Clerk-Stenographer is reestablished in the Chief Special Agent's Office Seniority District No. 4, and

C. That all other employees affected by Carrier's act, as heretofore set forth, be likewise compensated for wage losses sustained.

EMPLOYEES' STATEMENT OF FACTS: Prior to May 9, 1946, there was employed in the Office of Chief Special Agent, a Clerk-Stenographer, rate \$158.76, to which position Miss Rose Mackanich was permanently assigned. The position is one covered by all the rules of our working conditions agreement with the Carrier effective March 1, 1944 and by this reference thereto the Agreement, copy of which has heretofore been filed with your Honorable Board, is made a part hereof.

The duties assigned to the position of Clerk-Stenographers in the Chief Special Agent's Office were those normally attached to position of clerical workers, a group of employees of the Carrier embraced within Rule 1 of the aforementioned Agreement.

These duties pertained primarily to the handling of matters attached by Management to the Office of the Chief Special Agent, among which were:

- (a) Handling of personal injury claims.

the district to which transferred for any reason, they shall forfeit seniority in that district."

This rule was specifically written into the Agreement to permit Management to re-arrange positions efficiently as the requirements of the service necessitate. The re-arranged position of secretary was not advertised, because this was a position listed in Rule 2 (b), which excepted it from Rule 28, covering "Advertising Positions". Rule 28 is quite specific in this respect. While it has no bearing on this case, the employee who retained the remaining position was the senior employee.

The General Chairman's letter to Vice President Walked dated June 11, 1949 contended that Rule 28 was violated. This rule pertains to the advertisement of vacancies or new positions and, inasmuch as the position in question was properly abolished, no new position or vacancy was involved. The General Chairman's letters to the Superintendent of Personnel in 1949 did not mention what rules he considered as being violated, nor does his "Statement of Claim", quoted herein, specifically mention such rules.

The General Chairman was willing to overlook this case completely for three years. The Carrier should not now be required to handle it anew, after having met the General Chairman, discussed the case and denied it three years previously, and the Carrier should be given relief from such a practice.

It is obvious from the foregoing and the Carrier's Statement of Facts that there was a very large reduction in the clerical work of the two offices and that their combination effective May 16, 1946, was justified and proper.

The Carrier must at all times efficiently manage its business and increase and reduce forces as the requirements of the service necessitate.

Your Honorable Board and other Divisions of the Adjustment Board have so held on many occasions, and the Carrier respectfully requests that the claim of the employees be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: Effective May 9, 1946, the Carrier abolished the position of Clerk-Stenographer, Chief Special Agent's Office, and assigned the remaining work of the position to a clerical employee in the Real Estate and Freight Claim Agent's Office. The abolished position was in Seniority District No. 4 and the position to which the remaining work was assigned is in Seniority District No. 2. The claim is based on the principle that the Carrier cannot remove work from one seniority district and assign it to employees in another, even if such employees are covered by the same agreement. The Carrier contends that Rule 25, current Agreement, specifically authorizes it to rearrange the work as it did.

The record shows that this claim was handled with the Carrier in 1946 and that on July 5th of that year the Carrier unequivocally denied the claim. On May 31, 1949, almost three years later, the Organization reopened the matter. The Carrier asserts that the claim was handled to a final conclusion in 1946 and a final decision made from which no appeal was taken for almost three years. For the reasons stated in Award No. 4941, the decision of the Carrier in 1946 is final.

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 there was no violation of the Agreement for which the Carrier is chargeable.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 21st day of July, 1950.