

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Angus Munro, Referee

PARTIES TO DISPUTE:

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

WESTERN WEIGHING AND INSPECTION BUREAU

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

(a) The Bureau has violated the Agreement effective September 1, 1949 when it abolished the position of Agent at Winona, Minnesota at the close of business Friday, April 14, 1950.

(b) Requiring or permitting employes of the Carriers at Winona, Minnesota who are not subject to our Agreement to perform work that was regularly assigned to the Bureau.

(c) Claim for the establishment of the Agent's position at Winona, Minnesota and that of Mr. H. M. Percy and all other employes involved in or affected by the Bureau's action be compensated for monetary loss sustained, until corrected.

EMPLOYEES' STATEMENT OF FACTS: The Bureau issued their Bulletin No. 34, April 7, 1950, that abolished Position No. 136 Mr. H. M. Percy, Agent Winona, Minnesota (Employees' Exhibit No. 1 attached). Our letter of April 14th to Mr. O. E. Johnson, District Manager, calls his attention to the rules of our Agreement (Employees' Exhibit No. 2 attached). It is apparent District Manager Johnson forwarded our letter to the Bureau Chicago Office as shown by Mr. Piehl's letter of April 26, 1950 claiming the position was abolished because there was not sufficient work at this station, and further the after-delivery Loss and Damage Inspection Service did not exceed 10%, if that much, and further the auditing was assigned to Traveling Agent Hessler whose rate of pay is in excess to that attached to Position No. 136 Agent (Employees' Exhibit No. 3 attached). There is attached as information covering the exchange of correspondence Employees' Exhibit No. 4 and No. 5. After the exchange of correspondence and development that the Bureau was attempting to parcel out this work in order to abolish the position, we advised Manager Piehl in our letter of May 17th that this letter would serve as a claim in behalf of Mr. H. M. Percy and all other employes affected (Employees' Exhibit No. 6 attached). There is attached Employees' Exhibit No. 7 to No. 11 inclusive showing our exchange of correspondence.

There is an Agreement in effect between the parties effective September 1, 1949, copies of which have been filed with the National Railroad Adjustment Board, and by reference are made a part of this Submission. Among

August 22, 1950, Mr. F. A. Piehl, per Employer's Exhibit No. 12, replied to Mr. Bell's letter of August 16th.

May 18, 1951, Mr. Bell, as per Employer's Exhibit No. 13, advised us that the subject was being submitted to your Honorable Board.

Under the plan made effective September 1, 1949 it developed that the time required to perform the Auditing and Weighing Supervision services was reduced more than 54% as compared with the time required for such services prior thereto. It was for this reason that it was determined that the Auditing and Weighing Supervision services could be assigned to one of the Bureau's traveling representatives.

During the months following the changes effective September 1, 1949 in the handling of work involved in Items 1, 2 and 3, as referred to in the Bureau's Statement of Facts, which items comprised practically seven-eighths of the eight hour tour of duty of the Resident Agent, a study which was made developed the fact that by those changes there had been a reduction of approximately 55% in the time required to perform the work of these three items. As a result of that study, the position of Agent was abolished effective April 14, 1950, at which time the reduced work of Items 1, 2 and 3 were taken over by one of our Traveling Agents and the work of Items 4, 5 and 6 was abolished.

The work assigned to the Resident Agent substantially decreased for reasons herein explained and as continuation of the position could not be justified it was abolished in accordance with past practice, custom and in the interest of efficient and economical operation. That the abolished Resident Agent's position is entirely unnecessary is clearly borne out by the fact that the Traveling Agent since April 14, 1950, has properly performed the remaining work of the abolished position within the tour of his regular assignment and without overtime or interference with his regular assignment. See Third Division Award 3838.

As to the Employees' claim that the Bureau required or permitted employees of the carriers at Winona, Minnesota to perform work regularly assigned to the Bureau, we have no knowledge as to the basis of this allegation, however, the Bureau has no jurisdiction over employees of the carriers and therefore did not nor cannot require or permit carrier employees to perform work of any kind.

Management should not be required to continue in existence a position that is unnecessary. We feel that the facts as set forth herein fully justifies the abolition of the position because it has been shown that the amount of time required to perform the services would not and could not justify the continuation of this position. This is made clear when our traveling representative, a fully covered employe carried on the same seniority roster and working in the same seniority district at a higher rate of pay than for position that was abolished, was assigned to the work which remained on the abolished position.

Therefore, it is the Bureau's position that there has been no violation of our working conditions' Agreement and that the claim is without merit, and should be denied.

All data contained herein has been presented to the Employees.

(Exhibits not reproduced.)

OPINION OF BOARD: This claim is brought by the System Committee of the Brotherhood, hereinafter called Petitioner, on behalf of certain individuals more particularly described and referred to in part (c) of claim, hereinafter called Claimants.

On or about April 7th, 1950, Carrier abolished the job of Agent at Winona. Several of the duties of said job were transferred to another job within the Schedule and of this we are not concerned with. Petitioner avers other duties of the abolished job continued to be performed by individuals not in the employment of Carrier. It is contended by Carrier such other duties were no longer in existence and were not performed by anybody. Be that as it may we think if Petitioner's contention is accepted the case is in line with Award 4353 (Robertson, 1949).

The work in question was secured by Carrier as a result of the relationship with the Burlington and other railroads. Inasmuch as it was not necessary to the operation of Carrier it or parts thereof could be removed depending on what action was taken by Carrier and the other railroads.

Petitioner further urged since such other railroads participated in some capacity during the negotiations resulting in the adoption of the Schedule before us that fact prohibits what we are concerned with. Whatever such other railroads are liable or responsible for is not before us in this case.

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

The evidence of record does not warrant an affirmative finding.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Acting Secretary

Dated at Chicago, Illinois, this 21st day of May, 1952.