

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Mortimer Stone, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILWAY & STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS & STATION EMPLOYES

RAILWAY EXPRESS AGENCY, INC.

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

- (a) The agreement governing hours of service and working conditions between the Railway Express Agency, Inc., and the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees, effective September 1, 1949, was violated at Oakland Pier, Calif. September 9, 1949, when relief positions were established and advertised by bulletin with the group and position numbers of the positions to be relieved not indicated on the bulletin; and
- (b) That the bulletins advertising all relief positions shall indicate the group and position numbers of positions to be relieved.

EMPLOYEES' STATEMENT OF FACTS: Beginning with the advent of the 40 hour work week, effective September 1, 1949, Carrier began anew and contrary to practice and custom (See Bulletin No. 17187 dated August 29, 1947—Exhibit "A") to bulletin "relief positions" without specifying the group and position number of the position to which the incumbent of the relief position would be assigned each day of his bulletined assignment. For example, September 9, 1949 a "Relief Foreman and Express Handler" position in Group 53, Position 1, was advertised by Bulletin No. 19775 and scheduled to operate as follows:

Day	Pos. Relieved	Hours	Lunch Period	Salary
Monday	Express Handler	12:00 M-8:30 A	4:00 A-4:30 A	\$265.79
Tuesday	Foreman	12:00 M-8:30 A	4:00 A-4:30 A	291.09
Wednesday	Foreman	12:00 M-8:30 A	4:00 A-4:30 A	291.09
Thursday	Express Handler	12:00 M-8:30 A	4:00 A-4:30 A	265.79
Friday	Express Handler	12:00 M-8:30 A	4:00 A-4:30 A	265.79
Saturday	Day of Rest			
Sunday	Day of Rest			

(Copy of bulletin is attached, identified as Employees' Exhibit "B")

Accordingly, when the Note is read in conjunction with paragraph (e) it becomes abundantly clear that positions and work of relief employees refer to duties and operations to be performed by the Carrier and not to the work of individual employees. To hold otherwise would be to give a meaning to the word "positions" that was not intended when the parties adopted the shorter work week recommended by the Cole Emergency Board. The concept relating to the necessity of identifying the individual positions to be relieved under the old continuous operation rule in effect prior to September 1, 1949, was completely set aside by the Forty Hour Week Agreement which changed the criterion from the work of the individual position to the service, duties or operations necessary to be performed the specified number of days per week.

Employees have completely failed to establish that Rule 10 or Rule 45-A (e), or any other rule of the Agreement requires that the Group and Position Number, and the duties of positions relieved, should be shown on Bulletins advertising Relief Positions, and the claim should be denied in its entirety.

All evidence and data have been considered by the parties in correspondence and in conference.

(Exhibit not reproduced).

OPINION OF BOARD: Claimants herein ask this Division to rule that bulletins advertising all relief positions shall indicate the group and position numbers of positions to be relieved. The applicable part of Rule 10 reads:

"Bulletin—Rule 10. New positions or vacancies shall be bulletined within seven (7) days in agreed upon places accessible to all employees affected for a period of ten (10) days in the seniority district where they occur; bulletin to show location where work starts and ends, title, route (for positions in vehicle service for the purpose of describing generally the territory to be covered), group and number of position, description of duties, starting and quitting time, meal period (except in train service), days of rest, rate of pay and state whether five (5), six (6) or seven (7) day operation."

There is before us no dispute with reference to bulletining regular assignments other than relief positions, and it appears that the bulletins customarily issued as to such assignments are deemed sufficient "to show location where work starts and ends, title, route * * *, group and number of position, (and) description of duties," as required by Rule 10.

Employees contend that such showing of group and position number of the employees to be relieved is necessary, both under Rule 10 and under Rule 45-A(e), while the Carrier states, "It is our position that the new Agreement contains no requirements that relief positions must be specifically identified with respect to the positions relieved during the full assignment. It is sufficient if the position be bulletined to show the class of work to be performed for each day of the assignment, and the rate of pay for same. It is not necessary to tie it up to any specific position for the relief man may relieve any position in a particular group."

However, while both parties refer to the new Agreement and some of its provisions would appear to be important as guides to us here, yet both parties state that the issue narrows itself to consideration of the provisions of Rule 10; therefore, we shall restrict ourselves to consideration of that rule.

It appears from the Docket that beginning in September 1949, following immediately upon the 40-Hour Week Agreement, Carrier began to bulletin relief positions by stating simply the name of the position to be relieved on each of the several days; as, "Express Handler" "5-Ton Drivers" and "Foreman," followed by the hours, lunch period and salary of the several positions

to be relieved. Prior to that time, bulletins had shown the particular job to be relieved on each day by stating its group and position number.

The Docket discloses that there are several positions titled "Express Handler," "Foreman," "5-Ton Driver" and "Driver Clerk," having different routes, duties or locations allotted to those of the same title. In such case, the mere identity of the nature of the position by the title, as "Express Handler" or "Foreman," is not sufficient to disclose the territory covered or duties of the assignment, so as to comply with the requirements of Rule 10.

As urged by employes, there might well be differences of routes of work details sufficient to influence one with regard to bidding for a position and the bulletin should describe the position sufficiently so that employes can determine with informed judgment whether they desire to bid for it.

It is not disputed that in bulletining such positions prior to September 1949 the provisions as to location, route and territory to be severed were shown by including the group and position number of each position to be relieved. Uniform custom long adopted on the property should be very persuasive as to the propriety and necessity thereof.

Carrier urges that the 40-Hour Week Agreement has eliminated the provisions for punitive rate for Sunday work and consequently removed the necessity for the detailed showing theretofore required. Such being the case, if deemed proper Rule 10 might have been amended, but, since it was not amended, we must construe it as it is.

We think the complained of bulletins similar to the one set out in the statement of facts herein are not in sufficient compliance with Rule 10 and that bulletins of such relief positions should show, either by group and number of positions or otherwise, the identity of the positions to be relieved.

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 Carrier has violated the Agreement in its bulletin No. 19775 and like bulletins.

AWARD

That bulletins advertising all relief positions shall indicate either by group and number of positions or otherwise, the identity of the positions to be relieved.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

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

Dated at Chicago, Illinois, this 12th day of June, 1953.