

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Frank Elkouri, Referee

PARTIES TO DISPUTE:

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

GREAT NORTHERN RAILWAY 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 Carrier violated the Clerks' Agreement:

1. When on November 21, 1951, and all subsequent days thereafter, the Carrier abolished the Messenger position at Allouez, Wisconsin, and had the work performed by switch crews who were not a part of the craft or class covering messenger positions.
2. That employee John J. Kelly be compensated at the messenger rate of pay for November 21, 1951 and each and every day thereafter that this work was performed by switchmen.

EMPLOYES' STATEMENT OF FACTS: Prior to the abolishment of this position, the Carrier had established three round-the-clock positions known as messengers. The assigned duty of these positions was mainly the delivering of mail and way bills to and from the Allouez Ore Docks from the Scale and Yard Departments at Allouez.

On November 21, 1951, the Carrier abolished one of these positions which formerly had been assigned from 3:00 P.M. to 11:00 P.M. The work of this position was transferred in its entirety and handled by switch crews. One of the two remaining positions was abolished the next day, November 22nd, and the remaining position was continued on until the close of the ore dock season at Allouez, Wisconsin.

POSITION OF EMPLOYES: We are quoting Article I, Rules 1 and 2 of our Agreement effective September 1, 1950:

"ARTICLE I. SCOPE

Rule 1. These rules shall govern the hours of service and working conditions of the following class of employees, including employees at King St. Station:

- (a) Clerks.

of ore handled by a yard crew, where mail and waybills are placed in care of the switch foreman or yard conductor.

In other words it is the prerogative of management to decide on the method of handling company mail and the class of employee handling same depends on the method used; i.e., if handled on trains, it is handled by conductors (road or yard), brakemen or baggagemen; if handled on highway trucks, by the drivers; but if handled by messengers or mail truckers specifically assigned as such, by employees covered by the Clerks' Agreement.

The Carrier believes that the above facts as to mail handling are so well and generally established as to need no specific evidence to corroborate them, particularly to a Board made up of practical railroad men and we, therefore, hold, that in line therewith, the claim of the Employees in this case is without merit and must be denied.

It is hereby affirmed that all data herein submitted in support of Carrier's position has been submitted in substance to the Employee Representatives and made a part of the claim.

OPINION OF BOARD: By bulletin dated April 3, 1951, the Carrier established three "messenger" positions, the bulletin closing with an announcement in the nature of an assurance as follows: "Above positions for duration of ore season." On November 21, 1951, the Carrier abolished one of the three positions and transferred work attached thereto to switch foremen. A second messenger position was abolished on November 22, 1951. The remaining messenger position was continued until November 30, 1951.

The Employees contend that Carrier's action in abolishing the messenger position and transferring work attached thereto to employees outside the Clerks' Agreement, prior to the close of the ore season, was improper. The Employees contend that the Carrier "had no right whatever to take this work away from the employees (under the Clerks' Agreement) until the close of the ore season on November 30th."

In its statement of facts the Carrier clearly states that "the ore season was closed November 30th." The "assurance" type announcement contained in the bulletin, to the effect that the positions were for the duration of the ore season, coupled with the Carrier's statement as fact that the ore season was closed on November 30, made it improper for the Carrier to abolish the messenger position prior to the close of the season and give work attached thereto to switch foremen. Accordingly, the request for compensation at the messenger rate of pay from November 21 to November 30, 1951, must be sustained.

This case does not involve and is not intended by the Board to be used as a precedent on the question of whether this Carrier after setting up messenger positions by bulletin for one ore season must assign the work involved only to employees under the Clerks' Agreement in subsequent ore seasons.

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 claim will be disposed of in accordance with the Opinion.

AWARD

Claim disposed of in accordance with Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 10th day of September, 1953.