

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

J. Glenn Donaldson, Referee

PARTIES TO DISPUTE:

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

THE NEW ORLEANS TERMINAL COMPANY

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

(a) The Carrier violated the Agreement when, on November 17, 1952, without conference or agreement, it arbitrarily removed the work of making reservations, selling tickets and work in connection therewith from under the Agreement and assigned it to employes of another seniority district claimed to be "excepted" from Agreement Rules.

(b) All positions now performing any of the work so removed shall be bulletined to and filled by employes holding seniority in the district from whence the work was removed. Such positions shall henceforth be considered positions covered by the Agreement with the Carrier and future vacancies bulletined to the Carrier's employes.

(c) All employes covered by the Agreement shall be compensated for all loss sustained by reason of the Carrier's action.

EMPLOYEES' STATEMENT OF FACTS: The Carrier operates a passenger station in New Orleans, Louisiana, it's property constituting one seniority district. Prior to November 17, 1952, all work of making reservations, selling tickets, and work in connection therewith, was performed by Carrier's employes at the Carrier's station, there being no City Ticket Office. On November 17, 1952, the Southern Railway System, with which the Carrier is affiliated, established and opened a City Ticket Office in New Orleans, announcing in newspaper advertisements, "We will move our present New Orleans Passenger Organization to this new address." Effective November 15, 1952, the Carrier issued Abolishment Bulletin No. 17 abolishing four (4) positions. A copy of Abolishment Bulletin No. 17 is attached hereto and identified as Employes' Exhibit "A".

Effective November 18, 1952, the Carrier advertised three (3) positions by Bulletins numbered 18, 19 and 20. Copies of those Bulletins are attached hereto and identified as Employes' Exhibits "B", "C" and "D" respectively.

Effective November 17, 1952, Mr. N. J. Spicuzza, formerly the Carrier's Depot Passenger Agent, was assigned to the newly opened Ticket Office and

(c) Occupants of the official and subordinate official positions in the reopened Uptown Ticket Office in New Orleans in employ of Southern Railway Company are **not** subject to the terms of the effective collective bargaining agreement between Southern Railway Company and its clerical and other employees;

(d) The positions of City Ticket Agent and Assistant City Ticket Agent are specifically excepted from the collective bargaining agreement between Southern Railway Company and its clerical and other employees, and the Board being bound by law to decide the instant dispute in accordance with the terms of the effective agreement between the parties is without authority to extend coverage of the agreement between The New Orleans Terminal Company and its clerical and other employees to occupants of these two positions. Furthermore, Southern Railway Company is **not** here before the Board.

(e) The monetary payment claimed is indefinite in that no claimants are specified, no dates are named and no amounts indicated.

For all the reasons given, the claim is wholly without merit, is unsupported by the agreement between The New Orleans Terminal Company and its clerical and other employees and, therefore, should be denied, Carrier, therefore, respectfully requests the Board to make a denial award.

All factual evidence here submitted has been made known to employe representatives.

(Exhibits not reproduced.)

OPINION OF BOARD: Effective November 17, 1952, this Carrier, The New Orleans Terminal Company, discontinued four positions and established three positions with different schedule of hours at its ticket office in its passenger station at New Orleans.

Concurrent therewith the Southern Railway Company, a part of the same system as this Carrier, reopened a city ticket office uptown in New Orleans. Buhler, the former incumbent of the abolished position at the station as an employe of this Carrier, was employed in the newly opened office by the Southern Railway Company with the title of Assistant Ticket Agent.

Rule 1 (b) provides that the Agreement does not apply to Ticket Agents and Assistant Ticket Agents in uptown or outside ticket offices. The Employes contend that Carrier's action in unilaterally removing work of making reservations, selling tickets and work in connection therewith, formerly performed by employes at the passenger station, positions covered by the Scope of the Agreement, and assigning such work to positions not covered by the Agreement, is in violation of the Scope Rule.

It should be borne in mind, however, that the compelling factor, so far as work was concerned, was the sole doings of the Southern Railway Company and not of this Carrier. The docket shows no privity of contract between carriers which resulted in the action complained of. Ticket sales and related work continued as before, at the station.

That no monopoly was intended to be given to Carrier's Ticket force at the Station in respect to the work in question is best evidenced by the fact that at all times pertinent hereto, and particularly since 1932, the Southern Railway Company's employes were doing the same work without protest in its office of the Division Passenger Agent, Second floor, Terminal Station Building in New Orleans. We should note also that at least one contract revision occurred while this practice prevailed.

The independent actions of the Southern Railway in better conveniencing the traveling public, incidentally had its detrimental effect upon inquiries and ticket sales at the Depot and permitted this Carrier to reduce its force.

While the Agreement is common to both the Southern Railway Company and this respondent and they belong to the same overall system, it would appear that they are separate corporate entities acting independently of one another in the conduct of their separate businesses.

Rule 46(e) has no application to the case at hand as the acts occurring here were clearly not for the purpose for which the rule was designed to prohibit. It is to the principle represented by this rule, however, that many of the Awards cited by the Employees pertain.

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 Agreement was not violated by the Respondent herein.

AWARD

Claims denied.

NATIONAL RAILWAY ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois this 16th day of July, 1954.