

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Whitley P. McCoy, Referee

PARTIES TO DISPUTE:

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

**THE DELAWARE, LACKAWANNA AND WESTERN RAILROAD
COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that the Carrier violated and continues to violate the Clerks' Agreement:

(1) When, effective June 5, 1954, it discontinued a clerical position at its Portland, Penna., Freight Station, held by Mr. Harry Bellis, and, concurrent therewith assigned the duties attached thereto, to a Clerk-Operator, an employe outside the Clerks' Agreement, as herein described.

(2) The Carrier shall be required to restore the position and work, which was improperly removed from the scope of the current Clerks' Agreement, to employes covered thereby, and that Harry Bellis and any other employes who may have been adversely affected by this violation of the Clerks' Agreement, shall be reimbursed for all monetary losses sustained as a result thereof, retroactive to June 5, 1954 and until the condition is corrected.

EMPLOYES' STATEMENT OF FACTS: The Carrier maintains a Freight Station at Portland, Pa., and on the date prior to the improper abolition of the clerical position held by Harry Bellis, the relevant forces consisted of the following:

Agent—Hours of service 7 A. M. to 3 P. M. daily, rest days Sat. and Sun.

Clerk—Operator—Hours of service 7:30 P. M. to 3:30 A. M. daily, Rest Days—Saturday and Sunday.

Clerk—Hours of service—7:00 P. M. to 3:00 A. M. daily, Rest Days, Saturday and Sunday.

The Agent and Clerk-Operator positions are covered by the Telegraphers' Agreement, the clerical position by the Clerks' Agreement.

On June 5, 1954 the clerical position, which falls within the confines of the Clerks' Agreement was discontinued and the following duties which were attached thereto, were improperly allocated to the Clerk-Operator, as follows:

assignment. See Awards 4288, 4355 and 4477 of this Division. As stated in Award 4477:

'When the work of clerks exceeds that which the telegrapher can perform and it becomes necessary to increase forces, the excess clerical work belongs to clerks and must be assigned to them. If the work recedes to the point where the telegraphers can perform it all, it is the clerks and not the telegraphers which must be cut off when telegraphic work remains to be performed.' "

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The kind of work in question here has been performed by telegraphers for as long as we have had agreements with that Organization on this property. Work being performed by the telegrapher is incident to his telegraphic work. It has been recognized for many years that, with well understood limitations, the employee covered by the Telegraphers' Agreement may perform station work in conjunction with their exclusive telegrapher's work and, likewise, clerical employees may perform certain types of station work but under no circumstances or conditions, or at no time, has either had the exclusive right or monopoly in the performance of such work. The telegrapher in this case is available to perform, and may perform, this work in connection with his telegraphic duties.

There is no rule, precedent or practice to support the employees' position in this claim which should be denied. All data in connection with this case have been handled with the employees on the property.

(Exhibits not reproduced).

OPINION OF BOARD: Effective June 5, 1954, the Carrier discontinued a clerical position covered by the Clerks' Agreement, at the Portland Pa., Freight Station, and assigned the clerical duties formerly performed by the Clerk to the Clerk-Operator, covered by the Telegraphers' Agreement.

Prior to this action, there had been three positions at the Portland Freight Station: Agent-Operator, who performed all the work during the daytime, 7:00 A. M. to 3:00 P. M.; and a Clerk and a Clerk-Operator who worked the night shift together, the former from 7:00 P. M. to 3:00 A. M. and the latter from 7:30 P. M. to 3:30 A. M.

The work at Portland having decreased to the point where one man could perform it on the night shift, the Carrier abolished the clerical position. The Brotherhood's contention is that in assigning the clerical work of the abolished position to the Clerk-Operator, the Carrier violated the Scope Rule of the Agreement, the Seniority Rules, etc.

These contentions have been decided adversely to the Brotherhood in so many decisions of this Board that it would serve no useful purpose to replot this well plowed ground. See Awards 615, 2334, 6269, and 6758. The general principles applied in these and similar awards have been held not applicable to certain situations, such as those covered by Awards 636, 4932, 2071, 2550, 7622, 4288, and others, but we find that the facts of the instant case bring it within the general rule rather than within the principles of the exceptional cases. The work of the Clerk-Operator, after the abolition of the Clerks position, was in proximity to his post.

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 Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 20th day of September, 1957.