

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Carroll R. Daugherty, Referee

PARTIES TO DISPUTE:

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

**CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY**

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

(1) Carrier violated and continues to violate the Clerks' Rules Agreement when, effective January 2, 1951, it abolished clerical position No. 196 at Woonsocket, South Dakota, and assigned the remaining duties of that position to the Agent and Operator, both of whom are employees covered by another rules agreement.

(2) Carrier shall restore the clerical work associated with Position No. 196 to the Clerks' Agreement and the employees covered thereby.

(3) Employee G. B. Flattum shall be compensated for all loss suffered as result of such abolishment; and

(4) Any and all other employees affected by the abolishment of Position No. 196 shall be compensated in full for all loss suffered as result thereof from January 2, 1951, until the work of that position is returned to the scope of the Clerks' Rules Agreement and the employees covered by that Agreement.

EMPLOYEES' STATEMENT OF FACTS: For many years the Carrier maintained a position of Clerk at Woonsocket, South Dakota, the force at that point prior to February 18, 1946, consisting of the Agent and one clerk.

On February 18, 1946, the Carrier established a position of Operator at Woonsocket, South Dakota. The force then consisted of the Agent, Operator and Clerk.

Effective January 2, 1951, the Carrier abolished clerical Position No. 196 at Woonsocket and assigned the work of that position to the Agent and the

(5) none of the rules of the current schedule support this claim, but, to the contrary, the carrier's action in abolishing the clerical position is supported by several rules of the clerks schedule;

(6) the carrier's action in abolishing the clerical position at Woonsocket is supported by the awards of the Third Division. These awards show that under circumstances like those at hand, telegraphers may perform work previously performed by a clerk, and that this is particularly true when the work at a station diminishes to a point where it becomes a one-man station;

(7) Award 5785, the Sanborn case, does not support the employees in the instant dispute because Sanborn did not become a one-man station, and because the arguments advanced by the employees in the Sanborn case indicate that they agree that a clerical position might be abolished under circumstances such as those which actually existed at Woonsocket. Furthermore, the carrier submits that Award 5785 did not reach the correct result;

(8) it would be inequitable to sustain this claim because the carrier should not be required to maintain an unnecessary position. The employees involved would not benefit, and the organization, the carrier and the general public would suffer by imposing upon the carrier the wasteful and extravagant maintenance of such an unnecessary position;

(9) no employee suffered any loss because of the carrier's action in this case.

We, therefore, submit that the claim is entirely without merit and should be denied.

All data contained herein has been made known to the employees and conference has been held on the property.

(Exhibits not reproduced.)

OPINION OF BOARD: It is clear from the language of the claim and from the record of the case that the Telegraphers are an interested third party in this dispute between the Clerks and the Carrier. Study of the record suggests the possibility of an affirmative award directly affecting the interests of the Telegraphers.

It is necessary, therefore, first to consider the question of notice to the third party at interest. This issue has been before this Board many times, and the arguments pro and con need not be repeated and belabored here. It is sufficient (1) to hold that this Board is bound to respect the decisions of the several federal courts as to the interpretation of Section 3, First (j) of the Railway Labor Act, as amended; and (2) to point out that this holding follows the discussion and reasoning set forth in prior Awards 7975, 8022 and 8200.

FINDINGS: The Third Division of the Adjustment Board, 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, subject to the following finding as to notice:

That the Order of Railroad Telegraphers is involved in this dispute and is therefore entitled to notice of hearing pursuant to Section 3, First (j) of the Railway Labor Act, as amended;

That the merits of the instant dispute are not properly subject to decision until said notice is given.

AWARD

Hearing and decision on merits deferred pending due notice to the Order of Railroad Telegraphers to appear and be represented in this proceeding if it so desires.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 18th day of July, 1958.