

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Horace C. Vokoun, Referee

PARTIES TO DISPUTE:

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

**THE NEW YORK, NEW HAVEN AND HARTFORD
RAILROAD COMPANY**

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

(1) The Carrier violated the rules of the Clerks' Agreement when they abolished the position of Assistant Stationmaster at New Haven, Conn., effective November 7, 1954, and thereafter turned the duties of that position over to employees not covered by the Agreement,

(2) The Carrier reestablished the position on Jan. 16, 1955, therefore, Mr. H. J. Quinn, the occupant of the position when it was abolished, should be paid the difference between the Ass't Stationmaster's rate and the rate he was forced to take, because of this illegal abolishment, which is \$4.103 per day, commencing Nov. 7, 1954, and to continue until Jan. 16, 1955.

EMPLOYEES' STATEMENT OF FACTS: At the New Haven, Conn., Railroad Station, on the week ending Nov. 6, 1954, there was employed six (6) Assistant Stationmasters,—two reporting at 7:55 A.M., and quitting at 3:55 P.M.,—two at 3:55 P.M. working to 11:55 P.M., and two reporting at 11:55 P.M. and working to 7:55 A.M. One Assistant Stationmaster on each trick works the outside station platform, the other works the Desk in the Stationmaster's office. These are all seven-day jobs.

In the week ending Nov. 13th, 1954, there was employed five (5) Assistant Stationmasters,—one job reporting at 7:55 A.M. to 3:55 P.M.,—2 reporting at 3:55 P.M. to 11:55 P.M., and two jobs reporting at 11:55 P.M. to 7:55 A.M. The job on the first trick was working the desk in the Stationmaster's office,—the jobs on the second and third trick were not disturbed.

The abolished job on the first trick is the cause of this dispute.

lation of assignments set out above each detail of work was not and is not rigidly compartmentalized, it is not every order, direction or suggestion that is specifically delegated to any one position. The work of the entire group was to keep traffic at the terminal moving in and out in an expeditious manner. As this Division has said on very numerous occasions, the amount of such supervision is for Carrier to determine and a substantial reduction, even though as in this case it did not prove feasible in practice, gives rise to no claim under the schedule.

Absent proof of violation presented in support of the case on the property, Carrier submits the claim must be denied.

All of the facts and arguments used in this case have been affirmatively presented to Employees' representatives.

(Exhibits not reproduced.)

OPINION OF BOARD: The facts in this case are not in dispute. Prior to November 7, 1954, the Carrier maintained at its New Haven, Connecticut, station, six (6) seven-day positions of Assistant Station Master, assigned around the clock with rest-day relief for each position. Two of these positions were assigned on each trick. Each position was required to be "qualified for desk and outside positions". Effective November 7, 1954, the Carrier discontinued one (1) of the Assistant Station Master positions on the first trick, with assigned hours from 7:55 A.M. to 3:55 P.M. The Carrier reestablished the position and on January 16, 1955, the Claimant was assigned to the reestablished position of Assistant Station Master.

This reestablishment is in accordance with the Vacancy Notice No. 1 dated January 7, 1955, requesting applications for position "51—Assistant Station Master". . . "to be qualified for desk and outside position." The Vacancy Notice of course sets up the usual hours of service, the days off, and the rate.

In its Statement of Facts, dated January 27, 1956, the Carrier made the following assertion: "The position, like the others at the passenger terminal, had supervisory and administrative duties in connection with the force engaged in servicing passengers and handling baggage, mail and express, while at the station. The Assistant Station Masters, represented by the Clerks' Organization, reported to a Station Master, represented by the Yardmaster's and Station Master's Association, Inc. Under the supervision of the former worked Information Clerks, Baggage Room employees, and similar groups, as well as Foremen in charge of baggage and mail handlers."

The Claimant admits certain supervisory duties along with others.

The prior Awards of this Board establish the principles that: (1) The Carrier in its discretion has the right to abolish any position when and as it deems that abolishment necessary and (2) any remaining duties of that position may be distributed to those employees entitled to perform them under the terms and conditions of the agreement between the Carrier and the Organization then and there in effect.

We will not concern ourselves with either the abolishment or reestablishment of the position of the Claimant in this case.

The question upon which the claim must stand or fall is "What happened to the work of this position when it was abolished and, if it remained, who performed it?"

The duties are not set out in the Scope Rule of the Agreement but were described by the Station Master on January 24, 1947 in a Memorandum which reads:

"Assistant Station Masters:

"Outside Assistant Station Masters at New Haven are to direct the moves to be made by the switch engines under their jurisdiction for accomplishing work concerning passenger trains.

"It should be understood that while the desk man has over-all jurisdiction for the purpose of coordinating moves, etc., his contact should be with the outside Assistant Station Master for switching movements and the outside Assistant Station Master in turn should notify all concerned of what switch engine moves are to be made including the Conductor of the switching crew, the cabin switchman at 76 and 77, the operators at SS-75 and SS-78, and when necessary, the terminal train dispatcher where such moves may involve interference by freight train movement.

"G. E. Bagre
"Station Master"

The Claimant through his Division Chairman on November 18th, 1954 says "The work which was performed by Mr. Quinn has been assigned to Station Master Bagre, also, to Switchmen and Mechanical forces.

On February 23, 1956 in a communication in the record the contention is made that "the main duties were performed by the Station Master . . . incidental work, such as keeping records of delays, Switchmen, checking express and storage cars, advising the Stationmasters what cars to be switched, etc.
* * *"

The regular and relief Asst. Station Masters who remained on the job on the day shift after the abolishment of this position in question had this to say in joint statement:

"February 28, 1955

"TO WHOM IT MAY CONCERN:

* * *

"Since the abolishment of Ass't Stationmaster H. Quinn's position on November 7, 1954, which duties are to cover for 8 hours outside station platforms, we wish to state that our positions confine us behind our desks for 8 hours daily and in no way did we perform any of Ass't Stationmaster Quinn's former duties, or were we requested to do so.

FREDERICK H. TAYLOR (SIGNED)
Assistant Stationmaster

ROBERT J. KEEGAN (SIGNED)
Assistant Stationmaster"

To a direct question of the Carrier as to "who performed the work of the Assistant Station Master's job after it was abolished?" the Superintendent of the Carrier wrote:

"The work formerly performed by Ass't Stationmaster Quinn, after the abolishment of his position was performed by the Ass't Stationmaster behind the desk in the Stationmaster's Office."

Later the Manager—Labor Relations for the Carrier stated the following in a letter to the General Chairman:

"* * *

"The contention is that during the period the position was not in existence the work was performed by the Stationmaster and miscellaneous forces of other crafts at New Haven station.

"The Superintendent advises to the contrary—that much of the work was dispensed with and what remained was absorbed by other employes on the Stationmaster's staff. * * *

Based upon the above statements, which are, all the facts in the record regarding what happened to and who, if anybody, performed the work of the abolished positions, we are faced with a host of Awards of this Board which hold diametrically opposite rulings—

The Board feels that the mere statement of the Division Chairman is not evidence. The statement of the two Assistant Stationmasters is to the effect that they have not added outside duties to their own—They fail, however, to state who they contacted on the outside to "coordinate moves", there being no outside Assistant Station Master.

The Railway Labor Act did not design that proceedings before the several divisions of the Adjustment Board should be technical but some actual proof besides uncorroborated statements which have been denied at least by implication in contrary statements is necessary to assist the Board in a proper decision. In this case there is none.

The Scope rule, Rule 1—"Scope of Agreement and Excepting Therefrom" reads:

"These rules shall govern the hours of service and conditions of employment of the clerical, station and stores employes of the New York, New Haven and Hartford Railroad Company, as described herein, subject to the exceptions noted below:

(1) Clerks

- a. Clerical workers
- b. Machine operators
- c. Telephone switchboard operators

* * *

(2) Other office, station and stores employes—such as office boys, messengers, chore boys, train announcers, gate-

men, baggage and parcel room employes, train and engine crew callers, cabooses inspectors, operators of certain office or station appliances and devices, elevator operators, office station and warehouse watchmen and janitors.

(3) Laborers employed in and around stations, storehouses and warehouses."

We have searched the record for evidence showing that clerical work performed by the Assistant Stationmaster was during the abolition of the position, performed by employes who either by a limitation in the agreement or for some other reason were not entitled to perform it. We have not found it. Nowhere in the record is there any real evidence showing how the duties of the abolished position were distributed or who actually performed any of them.

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 there is no evidence that the Agreement was violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 3rd day of October, 1958.