

Award No. 8694

Docket No. CL-8139

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Lloyd H. Bailer, Referee

PARTIES TO DISPUTE:

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

SOUTHERN RAILWAY COMPANY

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

(a) The Carrier violated the effective Agreement when, effective April 15, 1953, it declared "abolished" the position of "Porter", rate \$10.30 per day, at its City Ticket Office, Atlanta, Georgia, contracting with "Associated Cleaning Contractors, Inc." for the performance of part of the duties of the "abolished" position and assigning a part of the duties thereof to employees either "excepted" from Agreement Rules or to employees holding seniority in a separate group under Agreement Rules, and

(b) The senior Group 5 furloughed or extra employee at Atlanta, Georgia, shall now be compensated at proper pro rata rate for each and every day the violation has continued until the Carrier shall have complied with Agreement Rules.

EMPLOYEES' STATEMENT OF FACTS: Effective with termination of assignment, April 15, 1955, the Carrier issued Bulletin purporting to "abolish" the position of "Porter" in the office of Assistant Passenger Traffic Manager (City Ticket Office) Atlanta, Georgia (Employees' Exhibit "A"). The position was the only one in the office occupied by an employee holding seniority in Group 5 of Rule 5 of the effective Agreement. The duties required of the occupant of the "abolished" position were, in part, to sweep, dust and perform related tasks necessary to keep the offices in a clean and satisfactory condition for the use of employees stationed in the City Ticket Office. Another duty required of the Porter was to deliver and receive mail for the City Ticket Office to and from the Carrier's main office building in Atlanta located some eight city blocks from the City Ticket Office.

On or about the date the position of "Porter" was abolished, the preponderant work was contracted to a business concern styled "Associated Cleaning Contractors, Inc." The duty of delivering and receiving mail began to be performed by employees embraced in Group 1 of Rule 5 of the Agreement and by employees "excepted" from the Scope Rule of the Agreement. (Employees' Exhibit "D".)

OPINION OF BOARD: The Carrier maintains a City Ticket Office in leased space of the Piedmont Hotel Building in Atlanta, Georgia. Prior to April 15, 1953 a Group 5 position of Porter was in existence at this office. The incumbent of this position, James A. Spears, was the sole Group 5 (5) employe at this location. Rule 5 of the Agreement provides that separate seniority districts are established for each office or building at which Group 5 (5) employes are employed. Thus Mr. Spears was the only occupant of the City Ticket Office seniority district for this group of employes. The duties of the Porter were to clean the office and deliver mail between said office, the Southern Railway Office Building and the Atlanta Terminal Station. The latter locations are some eight or ten blocks distant from the City Ticket Office.

Mr. Spears retired effective April 15, 1953, at which time the Carrier abolished the Porter position. The mail delivery work, which consumed about one hour per day, was transferred to Group 1 Clerks assigned at the City Ticket Office. The cleaning work, which also represented about one hour's work per day, was contracted out to an independent cleaning firm. Beginning in January 1955, this work was performed by the lessor of the building, the cost thereof being included in the rent.

The Organization contends the Carrier violated the Agreement by abolishing the Porter position and by contracting out the cleaning work to an independent firm. It contends the Agreement was further violated when the mail work was transferred to Group 1 employes, who are in a separate seniority district, and to employes excepted from the Agreement—namely, Passenger Representatives. The Carrier asserts the work of the Porter position had diminished to the point that there no longer was any need for it. It denies that any mail delivery work formerly done by the Porter was turned over to Passenger Representatives. It urges that there is no contractual bar to the assignment of the mail delivery work in question to Group 1 employes. With respect to contracting out the cleaning work, Management contends it is not required to maintain a full-time Porter position solely to perform part-time cleaning work in leased office space. It further states the City Ticket Office in Atlanta was one of the few uptown ticket offices in which a Porter was employed, and that there no longer are any such positions in uptown offices, the cleaning being done by an outside firm or by the lessor, with the cost being included in the rent.

The evidence fails to support the Petitioner's contention that mail work formerly done by the Porter has been transferred to Passenger Representatives. The transfer of the mail delivery work to Group 1 Clerks, standing alone, cannot be said to represent an Agreement violation. Award 7167, Carter. We note in this connection that "gathering mail" is referred to in the definition of Group 3 employes, although the Porter had been doing this work without dispute so far as the record discloses.

The cleaning work in question clearly is work covered by the Agreement. This is a customary function of Porters in an office. It was performed by Mr. Spears from 1927 until his retirement. We have regularly held that a Carrier may not unilaterally contract out work reserved to employes under the Agreement, absent exceptions which do not exist in the present case. It follows that the subject Carrier must restore the cleaning work in question to the Agreement.

As previously noted, the Organization requests compensation for the senior Group 5 furloughed or extra employe at Atlanta. The difficulty with this request is that any such employe would be outside the seniority district in

which the subject Porter position existed. We do not see that an employe in a different seniority district has a contract right to this work. We have been unable to find a previous case in which this Board has awarded compensation to an employe in a seniority district other than the one in which the disputed work arose. No basis appears for directing the requested compensation in the present instance.

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 the Carrier violated the Agreement.

AWARD

Claim sustained in part and denied in part in accordance with the above opinion and findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 16th day of January, 1959.