

Award No. 9618

Docket No. CL-9211

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Olive Crowther, Referee

PARTIES TO DISPUTE:

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

TENNESSEE CENTRAL RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employes that the Carrier violated the Clerks' Agreement:

(1) When on September 1, 1954 it arbitrarily removed work from the Scope and Classification of Our Agreement and assigned the Duties thereof to the Operator-Clerks at Shops, Nashville, Tennessee.

(2) That a Continued Violation exists at Monterey, Cookeville, Nashville, Tennessee and Various Stations. That excepted Personnel and Employes outside the Scope and Classification of Our Agreement are required to perform clerical work belonging to the Clerical Craft and Employes under Our Agreement.

(3) That Mr. James R. Brewer, Mr. J. J. Judd and such other Clerks as may be found entitled thereto, be given Monetary Compensation for each day of the Violations, so long as they continue to exist.

(4) That the Tennessee Central Railroad Company cease to require excepted personnel, Yardmasters and other Employes outside of Our Agreements to perform work, belonging to Clerks and Employes under Our Agreement.

EMPLOYEES' STATEMENT OF FACTS: This claim was started by letter from the General Chairman to the General Superintendent on February 28, 1955 as follows:

too vague and indefinite to be susceptible of determination and should accordingly be dismissed. Furthermore, Employes have advanced no sound grounds for making the claim on the basis of a day's pay and Carrier submits that none exists.

The claim on behalf of "such other Clerks as may be found entitled thereto" is so vague and indefinite that it provides not even a clue as to how the unnamed claimants might be identified and obviously improperly presupposes that either your Board or Carrier will shoulder the responsibility which attaches to Employes themselves and undertake to supply valid claimants where Employes have either neglected or been unable to do so. Carrier submits that this portion of the claim as made is not susceptible of intelligent handling and, further, that Carrier may not properly be required to either search its records to make a claim against itself or to attempt to clarify an obscure claim filed by Employes and that for your Board in its role of impartial arbiter to undertake to do so would be highly improper.

Part (4) of Statement of Claim is obviously a plea that your Board substitute its discretion for that of management in the conduct of the affairs of the Railway Company and being, therefore, a request that your Board exceed its powers, should be denied.

For the reasons stated all parts of instant claim should be either dismissed or denied, and Carrier respectfully requests that your Honorable Board so hold.

Carrier is making this submission without having been furnished copy of Employes' petition and respectfully requests the privilege of filing a brief answering in detail the ex parte submission on any matters not already answered herein, and to answer any further or other matters advanced by the Petitioner in relation to such issue or issues.

All data submitted herein has been presented in substance to the duly authorized representatives of the Employes and is made a part of the particular question in dispute.

OPINION OF BOARD: The facts of record in this case do not evidence any violation of rules or practices in effect on this property; consequently, the claim does not support a sustaining award.

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 Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schuly
Executive Secretary

Dated at Chicago, Illinois, this 2nd day of November, 1960.