

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Martin I. Rose, Referee

PARTIES TO DISPUTE:

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

PIEDMONT AND NORTHERN RAILWAY COMPANY

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

(1) Carrier violated the Clerks' Agreement when, on August 25, 1956, it abolished (effective Friday, August 31, 1956) position of Warehouseman, rate \$16.04 per day, Greenville Freight Agency, Greenville, South Carolina, and concurrent therewith established position of Clerk, Greenville Freight Agency, Greenville, South Carolina, performing the same class of work; and

(2) The former rate of \$16.04 per day be restored to the position of Clerk, formerly classified as Warehouseman, and that the occupant or occupants, since September 1, 1956, be compensated for the difference in the two rates of pay, i.e., \$16.04 and \$15.40, or 64 cents per day.

EMPLOYES' STATEMENT OF FACTS: Prior to September 1, 1956, there was a regularly established Freight Agency position with the classification of Warehouseman, with daily rate of pay of \$16.04. On July 28, 1956, this position was advertised at the Greenville Freight Agency as a temporary position with a probable duration of thirty (30) days or more (Employees' Exhibit "A"). The posting of this temporary Vacancy Bulletin was necessitated by the illness of the employee regularly assigned to the position. Mr. A. B. Childs was assigned to this temporary vacancy.

For many years prior to July 28, 1956, Mr. E. S. Griffin (deceased) had been the regularly assigned occupant of the position classified as Warehouseman at Greenville, South Carolina, which position was covered by Bulletin No. 34-C, S.C. Agencies, dated July 28, 1956 (Employees' Exhibit "A").

Shortly after the posting of Bulletin No. 34-C, S.C. Agencies, by Mr. R. T. Rhodes, Superintendent, Mr. E. S. Griffin died. Then, on August 25, 1956, the Carrier issued Bulletin No. 49-C, S.C. Agencies (Employees' Exhibit "B").

by Mr. Griffin now deceased. There are the following substantial differences in the duties and responsibilities of and in the character of the service required by the two positions:

1. A decrease from fourteen to four truckers engaged in handling freight.

2. The new position includes no responsibility for the delivery of freight from the warehouse to consignees or receipt of freight into the warehouse from shippers whereas the former position included this responsibility.

The new position was bulletined at a rate of \$15.40 as compared with a rate for the former position of \$16.04 per day. Certainly this difference in compensation is more than justified by the reduction in duties and responsibilities and in the service required.

(Exhibits not reproduced.)

OPINION OF BOARD: Prior to September 1, 1956, Carrier maintained in its freight agency at Greenville, South Carolina, a position of Warehouseman, rate \$16.04 per day. Because of the illness of the regular incumbent, the position was advertised as a temporary vacancy by bulletin which listed the preponderating duties of the position as:

"Checking and supervising the handling of L. C. L. and all duties in connection with transfer. Compiling reports as required."

On the death of the regular incumbent, the position was abolished, effective August 31, 1956, and a new position of Clerk, rate \$15.40 per day, was established by bulletin, dated August 25, 1956, which listed the preponderating duties of the new position as:

"Transferring and checking LCL freight in and out."

The Employes maintain that there was no appreciable change in duties to warrant discontinuance of the warehouseman position and the establishment of the new position of Clerk at the lower rate, and that these actions of the Carrier violated Rule 44 of the applicable Agreement which reads as follows:

"When there is a sufficient increase or decrease in the duties and responsibilities of a position or change in the character of the service required, compensation for that position will be promptly adjusted with the committee, but established positions will not be discontinued and new ones created under the same or different titles covering relatively the same class or grade of work, which will have the effect of reducing the rate of pay or evading the application of these rules."

The Carrier contends that there is a substantial difference between the preponderating duties of the two positions in that the new position of Clerk does not have the supervisory duties of the abolished Warehouseman position and is merely a check clerk required to check LCL freight in and out, and that, as a result of such difference, no violation of the Agreement occurred.

We have recognized the prerogative of a Carrier to determine job content of a position, to abolish positions and to establish new ones in the efficient operation of its business. We have held only that such prerogative must be exercised in the manner prescribed by the agreement between the parties to the extent therein provided. See Awards 3554, 3557, 8015. The agreement here contains such regulations.

Rule 44 is clear and without ambiguity. It requires that compensation "will be adjusted promptly with the committee" when there occurs "a sufficient increase or decrease in the duties and responsibilities of a position or change in the character of the service required". It bars the discontinuance of an established position and the creation of a new one "covering the same class or grade of work, which will have the effect of reducing the rate of pay or evading the application of these rules".

The bulletin for the temporary vacancy in the Warehouseman position included in the listing of preponderating duties "supervising the handling of L. C. L.". While this phrase was not included in the bulletined listing of its preponderating duties, the record establishes that, in fact, the new position of Clerk includes such duties and covers the "same class or grade of work" as the Warehouseman position within the meaning of Rule 44. The Carrier states as follows:

"... That the work load at the warehouse was handled by the same number of employees in 1956 as in 1952 conclusively shows that the effect of the increase in tonnage was offset by the change in character of the tonnage resulting in less handling and less supervision being required.

"Furthermore, when we go back to February 1949 at which time the work force at the warehouse was reduced from one (1) warehouseman and two (2) clerks to one (1) warehouseman and one (1) clerk, we find at that time a total of six (6) regular truckers were employed. In September, 1956, when the change in question was made, we find that the work at the warehouse had decreased so that it was performed by only four (4) truckers. Not only was the volume of work less but also in 1956 the tonnage was predominately merely transfer whereas in 1949 it was predominantly into and out of the warehouse. As above indicated, the day to day work and supervision required of the clerks was much less on transfer freight than on freight going through the warehouse. Obviously, therefore, the work load and responsibility on the two (2) clerks in September 1956 was less than the load and responsibility on the one (1) warehouseman and one (1) clerk in 1949."

We are without authority to adjust the rate of pay on the basis of a decrease in work load or duties or responsibilities asserted by the Carrier. Rule 44 expressly refers such matters for adjustment "with the committee" and no dispute in this regard is presented here.

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 Employee involved in this dispute are respectively Carrier and Employee 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 violated.

AWARD

Claim sustained.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION**

**ATTEST S. H. Schulty
Executive Secretary**

Dated at Chicago, Illinois this 26th day of May, 1961.