

**Award No. 10120**  
**Docket No. CL-10103**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**  
**(Supplemental)**

James P. Carey, Jr., Referee

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**PARTIES TO DISPUTE:**

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

**THE NEW YORK CENTRAL RAILROAD COMPANY —  
GRAND CENTRAL TERMINAL**

**STATEMENT OF CLAIM:** Claim of System Committee of the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees, of the New York Central Railroad Company, Eastern District (except Boston Division) that:

1—Carrier violated the Clerks' Agreement when, on December 20, 23, 24, 27, 28, 29 and 30, 1954, it permitted and required Mr. S. Elkind, Terminal Storekeeper, an employe not covered by the Clerks' Agreement, to perform the work of Mr. M. D'Amico Storekeeper, whose position is covered by the Clerks' Agreement.

2—Carrier be required to pay Mr. S. Matuskovic, furloughed Assistant Storekeeper, one day's pay for each of the aforesaid 7 days on which Mr. S. Elkind, Terminal Storekeeper, performed, improperly and in violation of the Clerks' Agreement, the work of above Storekeeper's position.

**EMPLOYEES' STATEMENT OF FACTS:** During October and November, 1954, the number of positions in the Stores Department, Grand Central Terminal, New York, N. Y., was reduced from 12 to 7 positions.

On December 20, 23 and 24, 1954, Mr. D'Amico, Storekeeper, was required to relinquish the duties of his position and perform the work regularly assigned to the position of Mr. James McGrady, Assistant Storekeeper, who was absent on vacation.

On December 27, 28, 29 and 30, 1954, Mr. M. D'Amico, Storekeeper, was absent on vacation.

On each of the aforesaid 7 days, Mr. S. Elkind, Terminal Storekeeper, whose position is "excepted" and not covered by the Clerks' Agreement, performed the work of the Storekeeper's position (M. D'Amico's), which position is covered by the Clerks' Agreement.

ness or vacation or other causes, and the essential duties of the absent employees are absorbed by the remaining personnel. The absent Storekeeper on the dates in question was paid during such absence and as the Carrier has previously explained, the provisions of Rule 38 permit the Carrier to so handle the situation.

On none of the dates in question did the Terminal Storekeeper take over the complete duties of the absent Storekeeper. He simply took care of a small amount of the more important work and there was no justification for the Carrier to have called back furloughed employee, Mr. S. Matuskovic. The Terminal Storekeeper was able to absorb the work without additional positions being required.

Rule 38 and the agreed-upon provisions support the Carrier's action.

**OPINION OF BOARD:** It is undisputed that on the dates shown in the Statement of Claim, the Terminal Storekeeper performed duties of the Storekeeper as the result of vacations. The position of Terminal Storekeeper is not embraced within the Scope of the Clerk's Agreement. The essence of the claimed violation of the Clerk's Agreement is the performance of storekeeper's work by an employee, not included within the scope of the Clerk's Agreement.

The Carrier refers to an understanding effective October 1, 1934 interpreting Rules 38 and 44 with respect to work absorbed by other employees in case of sickness or vacation. We hold this is inapplicable to the situation disclosed in the present record. The "other employees" mentioned in the 1934 understanding refers to employees covered by the Clerks' Agreement. If during their vacations, part or all of the work within the scope of the assignment of the Storekeeper or Assistant Storekeeper is required to be performed, it should be done by those employees who are within the scope of the Clerk's Agreement and whose seniority permits them to perform such work in accordance with the rules of the existing agreement. Having contracted with the Clerk's Organization with respect to the duties assigned to the Storekeeper, the Carrier is not at liberty without consent to assign part of such work to an employee outside of the scope of the Clerk's Agreement irrespective of the relatively minor amount of work required. The situation disclosed by the record in this case is distinguishable from those involved in Awards relied on by the Carrier. In the main, those decisions were concerned with positions which, by reason of substantial reduction in work volume, they were abolished and the small amount of work remaining was assigned to other positions to the performance of which such duties were generally incidental. In this case, the positions of Storekeeper and Assistant Storekeeper were not abolished. We find that the instant claim is valid.

**FINDINGS:** The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

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; and

That the Agreement has been violated.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of THIRD DIVISION

ATTEST: S. H. Schulty  
Executive Secretary

Dated at Chicago, Illinois, this 13th day of October, 1961.