

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Wesley Miller, Referee

PARTIES TO DISPUTE:

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

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY

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

(a) Carrier violated the current clerical Agreement when they assigned the calling of train and engine crews to the Agent and Telegraphers at Booneville, Arkansas.

(b) Carrier further violated the current clerical Agreement when on November 20, 1956, they abolished the Yard Clerk position at Booneville, Arkansas, and assigned the duties of calling train and engine crews, checking the Yard, checking Trains, weighing cars, preparing bills for various trains, and the making of various clerical Yard reports, to the Agent and Second and Third Trick Telegraphers.

(c) Carrier shall pay Ernest L. Roberts a call for each violation, effective September 6, 1956, where the Agent and Telegraphers were required to call train and engine crews.

(d) Carrier shall be required to restore the position and work of Yard Clerk at Booneville, Arkansas, which was improperly removed from the scope of the current clerical Agreement to employees covered thereby and Ernest L. Roberts shall be paid eight (8) hours per day in accordance with his claim effective November 20, 1956, until the violation has been corrected; also any other clerical employees who were adversely affected by this violation of the clerical agreement shall be reimbursed retroactive to November 20, 1956.

EMPLOYEES' STATEMENT OF FACTS: Booneville, Arkansas, is a Yard Terminal on the CRI&P Railroad where trains are made up and change of crews on various trains are made, making it necessary to check the Yard,

ment is not in violation thereof; and that if the clerical work incident to a position increases and is assigned to a position under the Clerks' Agreement and performed by the occupant thereof, then if it decreases, Carrier may abolish the position and return the remaining work to the position from whence it came and to which it is incident. That is, clerical work incident to a position outside of a Clerks' Agreement may flow from such position to positions under the Clerks' Agreement and then, if it decreases, back to the position to which it is incident. See Awards 806, 1405, 1418, 2138, 2334, 3211, 3735 and 3989 of this Division."

Award 7198, Opinion of Board:

"While the record is clear that all ticket work has been assigned to and performed by clerks for a number of years, it is likewise clear that such work had initially been done by telegraphers and had been assigned to clerks classified as Ticket Agents (two positions) when the volume of work required."

Award 7246 and 7247, Opinion of Board:

"We are of the opinion this record shows the work involved was originally performed by employees of the train dispatching craft and the "Ebb and flow" principle which has been the basis of numerous awards of this division applies here. Also that the inclusion of the work in the Scope Rule does not have the broad application as here contended by petitioner in a situation where the work was originally performed by another craft as an incident to the work of such force and in the present case it cannot be said the involved work is exclusively that of Clerks."

In view of the long history of this issue before your Board and the determination of it under the applicable agreement in previously cited awards on this property and others, the Carrier has rejected the organization's claim and we respectfully request your Board to do likewise.

It is hereby affirmed that all of the foregoing is, in substance, known to the organization's representatives.

(Exhibits not reproduced.)

OPINION OF BOARD: Most of the material issues arising from the Claim have been decided adversely to the contentions of the petitioning Organization in recent Award 10301 (January, 1962-Bonebrake). Since that Award involved these same parties and the identical collective bargaining agreement, it is an especially persuasive precedent.

That portion of the Claim pertaining to "calls" before the Yard Clerk position was abolished (covering the time period between September 6, 1956, and November 20, 1956) poses more difficulties. While there is evidence in the Record to the contrary, we believe that the weight of the evidence shows that this particular work, "crew calling," was done by the telegraphers at the station during the hours of their regular assignments; that they performed it outside of the hours of Claimant's work shift; that overtime was not involved; and that the complained of procedure had become a mutually accepted practice at the particular location. Moreover, it appears to our satisfaction

that the telegraphers were "filling out time" in this particular factual situation and were, therefore, performing clerical work they were entitled to do.

It is not our intention to impinge upon the rights of clerks under their general scope rule, however, it is noted that there are well-established exceptions to the applicability of scope rules similar to the one at hand.

We find that the action of Carrier was taken within the framework of historically established exceptions and that, therefore, the Claim herein should be denied. See Award 615 and Award No. 29 of Special Board of Adjustment No. 170.

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 not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 3rd day of August 1962.