

Award No. 11554
Docket No. CL-11569

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Charles W. Webster, Referee

PARTIES TO DISPUTE:

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

ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY

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

(1) The Carrier violated the terms of the currently effective Agreement between the parties when on or about September 2, 1958, it abolished the position of Ticket Cashier at Fort Smith, Arkansas, and coincident therewith established a position of Telegrapher-Ticket Cashier who was assigned all of the duties previously attached to the clerical Ticket Cashier Position.

(2) That the work now be restored to the scope of the Clerks' Agreement and employes R. H. Lauderdale, L. W. House, L. L. Riggs, E. C. Bass, C. W. Jones, J. P. Burris, H. C. Sharum, and Melvin Burgess, who were displaced from their former positions as a result of this action, now be reimbursed for all losses sustained as reflected by the payrolls and other records of the Carrier.

EMPLOYES' STATEMENT OF FACTS: Prior to on or about June 1, 1948 all ticket work at Fort Smith, Arkansas was handled by employes of the Kansas City Southern Railroad under a contract with the St. Louis-San Francisco Railway Company. During the year 1947 and early part of 1948, due to the tracks of the Kansas City Southern being washed out between Fort Smith and Spiro, Oklahoma, the contract was cancelled and the Frisco took over its own passenger handling work, remodeling the General Office Building to provide for a waiting room and ticket office, establishing the position of Ticket-Cashier as shown by Employes' Exhibit 1 (a). On or about December 15, 1948 a position of Helper was established to assist with the handling of the head end work of passenger trains, checking and delivering of baggage, and janitor work. See Employes' Exhibit 1 (b). Also, effective on or about December 20, 1948 a new position of Ticket Clerk was established with hours of 7:30 A. M. to 3:30 P. M. (See Employes' Exhibit 1 (c)), with the hours of Ticket Cashier Position being changed to 1:00 P. M. to 9:00 P. M. The Ticket Clerk Position was abolished on or about January 30, 1956, (See Employes' Exhibit 1 (d)), leaving all of the ticket work assigned to the Ticket Cashier, whose position was abolished at the close of work September 2, 1958, and all of the work attached thereto assigned to a newly created position of Telegrapher-Ticket Cashier. See Employes' Exhibit 1(e) and 1(f).

"We know of no limitation upon a carrier's right to rearrange and relocate offices with a view to the most convenient and efficient layout for the performance of work. Whether a carrier chooses to scatter established offices in widely separated buildings or to concentrate them in one location, this simply decreases or increases the amount of clerical work available for telegraphers to fill out their time."

Also see Awards 6 and 32, SBA No. 194, and Third Division Awards 4355 (Robertson), 7133 (Carter), and 8690 (Bailer) recognizing that ticket selling work on this property is not reserved exclusively to either Clerks or Telegraphers.

Part (2) of the Employees' claim advanced to the Board is in two parts: First, the Employees are seeking to have the disputed work "restored to the scope of the Clerks' Agreement"; second, employees R. H. Lauderdale, L. W. House, L. L. Riggs, E. C. Bass, C. W. Jones, J. P. Burris, H. C. Sharum and Melvin Burgess, be paid "for all losses sustained as reflected by the payrolls and other records of the Carrier."

The work in question has never been in the Scope Rule of the Clerks' Agreement on this property.

There is no evidence of record that any of the claimants sustained "losses". The occupant of the Ticket Clerk-Cashier position, rate \$18.52 per day, displaced L. W. House, the occupant of a Bill Clerk position, rate \$18.63 per day. If any monetary loss was sustained by Claimant Lauderdale, such loss was not due to a reduction in wages. Therefore, such claim should be denied. See Award No. 10 of SBA No. 194. Also see Carrier's Exhibit B-3. In addition, it was said in Award No. 15, SBA No. 194, —

"... it follows that the Carrier did not incur penalties in favor of everyone on the extra list who may have been consequentially affected by the reduction."

The facts of record simply do not warrant a sustaining award and this Division is respectfully requested to so find.

All data in support of Carrier's submission have been presented to Employees or duly authorized representative thereof and made a part of the particular question in dispute.

(Exhibits not reproduced.)

OPINION OF BOARD: This is a Scope Rule case. The Carrier abolished the position of Ticket Clerk Cashier and established concurrently the position of Telegrapher-Ticket Cashier.

The jurisdictional point raised by the Carrier is moot as the Telegraphers were given proper notice under the provisions of this Board.

The facts show that in order to establish this new position it was necessary to change the working place of the Telegrapher and to install new equipment. The facts also show that the Telegraphers had never, prior to this time, handled ticket sales at this location.

Rule 60 of the Agreement provides:

"Established positions shall not be discontinued and new ones created under same or different titles covering relatively the same class of work serving the purpose of reducing the rate of pay or evading the application of these rules." (Emphasis ours.)

It is the judgment of this Referee that the Carrier's action is in direct violation of Rule 60 and therefore the claim must be sustained. See Award 10743.

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 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 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 28th day of June 1963.

CARRIER MEMBERS' DISSENT TO AWARD 11554 DOCKET CL-11569

Award 11554 is in error in that it treats ticket sales as being exclusively the work of clerks when in fact it is work by custom, practice and tradition, shared between the Clerks and Telegraphers on a systemwide basis on this Carrier. Awards 7183 and 8690. The Agreement is systemwide in its application, and the situation at Fort Smith, the isolated point involved, cannot properly be treated as controlling under the Agreement. Additionally, ticket sales at Fort Smith had fallen off to a point of near non-existence due to the deactivation of the military camp, and when the sale of the few remaining tickets was assigned to a telegraph employe capable of handling both telegraphic duties and ticket sales, rather than to the clerical employe who could not perform telegraphic work, there was no violation of the Agreement.

D. S. Dugan
P. C. Carter
W. H. Castle
T. F. Strunck
G. C. White