

Award No. 12237
Docket No. CL-11802

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Kieran P. O'Gallagher, Referee

PARTIES TO DISPUTE:

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

THE PENNSYLVANIA RAILROAD COMPANY

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

(a) The Carrier violated the Rules Agreement, effective May 1, 1942, except as amended, particularly Rule 3-C-2, when it abolished the position of Station Baggage-man held by Mr. C. S. Bortner, at the Canton Passenger Station, Canton, Ohio, Lake Region, effective April 21, 1958.

(b) The position should be restored in order to terminate this claim and that C. S. Bortner and all other employees affected by the abolishment of this position be compensated for any monetary loss sustained by working at a lesser rate of pay; be compensated by any loss sustained under Rule 4-A-2 (a) and (b) for work performed on Holiday pay lost, or on the rest days of their former position; be compensated in accordance with Rule 4-A-3 if their working days were reduced below the guarantee provided in this rule; be compensated in accordance with Rule 4-A-6 for all work performed in between the tour of duty of their former position; be reimbursed for all expenses sustained in accordance with Rule 4-G-1 (b); that the total monetary loss sustained, including expenses, under this claim be ascertained jointly by the parties at the time of settlement (Award 7287). (Docket 482)

EMPLOYEES' STATEMENT OF FACTS: This dispute is between the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees as the representative of the class or craft of employees in which the Claimants in this case held a position and the Pennsylvania Railroad Company — hereinafter referred to as the Brotherhood and the Carrier, respectively.

There is in effect a Rules Agreement, effective May 1, 1942, except as amended, covering Clerical, Other Office, Station and Storehouse Employees between the Carrier and this Brotherhood which the Carrier has filed with the National Mediation Board in accordance with Section 5, Third (e), of the Railway Labor Act, and also with the National Railroad Adjustment Board. This Rules Agreement will be considered a part of this Statement of Facts.

Therefore, the Carrier respectfully submits that your Honorable Board should deny the claim of the Employees in this matter.

The Carrier demands strict proof by competent evidence of all facts relied upon by the Claimants, with the right to test the same by cross-examination, the right to produce competent evidence in its own behalf at a proper trial of this matter, and the establishment of a proper record of all of the same.

OPINION OF BOARD: The issues found in this claim involve the right of the Carrier to abolish the job of Baggage man at Canton Passenger Station and to assign the work formerly performed by the Baggage man to a Ticket Clerk at the same Station.

The issues presented require first the determination of whether or not the Baggage man's position was properly abolished. We find from the record that the Carrier acted entirely within its rights, under the current Agreement in abolishing the position.

It then became necessary for the Carrier to rearrange the work formerly performed by the Baggage man and we find the Carrier adhered to the provisions of Rule 3-C-2, of the Agreement in this regard. Neither do we find anything in the record, or in the Agreement to prohibit the Carrier from assigning work formerly performed by the Baggage man as a Group 2 employe to the Ticket Clerk a Group 1 employe. Indeed, numerous well reasoned awards of this Division, support the right of the Carrier to assign mixed duties to Group 1 and Group 2 positions, such as occurred in the instant claim.

For the reasons set forth above we must perforce find no merit in the Claimant's contention, and it follows that we must deny the claim in its entirety.

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 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 20th day of February 1964.