

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Joseph S. Kane, 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 (GL-4503) that:

(a) The Carrier violated the Rules Agreement, effective May 1, 1942, except as amended, particularly Rule 3-C-2, when it abolished the third trick Store Attendant position of F. M. Gerlack at Paoli Car Shops, Paoli, Pennsylvania, Philadelphia Region, but failed to assign the remaining work of the abolished position to a position or positions covered by the Clerical Rules Agreement which remained in existence at the location where the work was to be performed.

(b) The Claimant, George B. Nowrey, and all other employes affected, should be allowed eight hours' pay a day retroactive ninety days from May 20, 1958 to February 20, 1958, and all subsequent dates until the violation is corrected. (Docket 670)

EMPLOYEES' STATEMENT OF FACTS: This dispute is between the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employes as the representative of the class or craft of employes in which the Claimants in this case held positions 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 Employes 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 part of this Statement of Facts. Various rules thereof may be referred to herein from time to time without quoting in full.

The Claimant in this case, George B. Nowrey, is the incumbent of a regular position of Store Attendant at Paoli Car Shops, Paoli, Pennsylvania, Philadelphia Region, tour of duty 7:00 A.M. to 4:00 P.M., including a one-

III. Under The Railway Labor Act, The National Railroad Adjustment Board, Third Division, Is Required To Give Effect To The Said Agreement And To Decide The Present Dispute In Accordance Therewith.

It is respectfully submitted that the National Railroad Adjustment Board, Third Division, is required by the Railway Labor Act to give effect to the said Agreement and to decide the present dispute in accordance therewith.

The Railway Labor Act in Section 3, First, subsection (i), confers upon the National Railroad Adjustment Board the power to hear and determine disputes growing out "of grievances or out of the interpretations or application of agreements concerning rates of pay, rules or working conditions." The National Railroad Adjustment Board is empowered only to decide the said dispute in accordance with the Agreement between the parties thereto. To grant the claim of the Employees in this case would require the Board to disregard the Agreement between the parties and impose upon the Carrier conditions of employment and obligations with reference thereto not agreed upon by the parties to this dispute. The Board has no jurisdiction or authority to take such action.

CONCLUSION

The Carrier has established conclusively that its action in abolishing the third trick position of Store Attendant violated none of the provisions of Rule 3-C-2, but, on the contrary, was accomplished strictly in accordance with the provisions thereof. Therefore, your Honorable Board is respectfully requested to deny the claim of the Employees in this matter.

OPINION OF BOARD: The Claimant occupied the position of Store Attendant on the last trick at Paoli, Pennsylvania. On October 14, 1957 the position was abolished and mechanics were permitted to enter the storeroom and secure materials and supplies from the storeroom for their own use. Prior to this date supplies were distributed by the Store Attendant. In addition any record keeping required on this third trick was performed by the first trick Store Attendant.

The Complainant alleged a violation of Rule 3-C-2 of the Agreement. That the distributing and accounting for these tools and materials is the duty of Store Attendants and should be performed by them.

It was Carrier's contention that none of the duties of the Store Attendant were assumed by the mechanics. That the work of securing supplies properly belongs to the mechanics and the Store Attendants do not have exclusive right to perform the same. It was further alleged that any record keeping relating to the position was assigned to the first trick Store Attendant.

[Footnote 3 continued]

term is defined in this Agreement, on his behalf, and must be presented, in writing, to the employe's immediate Supervisor within ninety days from the date the employe received his pay check for the pay period involved, except:

* * * * *

(b) If claims are not made within the time limit specified in the foregoing paragraph (a) of this rule (7-B-1) including Exceptions (1) and (2), they will not be entertained nor allowed."

The question to be determined on this dispute is: Was Rule 3-C-2 of the Clerks' Agreement violated when under the facts and circumstances, as stated herein, mechanics drew their own supplies?

This Board is of the opinion that the facts and circumstances of this dispute have been determined in Awards 10894 and 12341.

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 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 according to Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois this 21st day of May 1964.