

Award No. 12976
Docket No. CL-12871

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Don Hamilton, Referee

PARTIES TO DISPUTE:

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

**PHILADELPHIA, BETHLEHEM AND NEW ENGLAND
RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-4993) that:

(a) The Carrier violated the Agreement when, between July 1 and 8, 1960, it claimed to "abolish" all positions held by outside clerical forces.

(b) Employees named below shall now be additionally compensated for time lost because of the violation:

Employee	Days Lost	Dates
Ryan, J. P., Jr.	2	July 2, 3, 1960
Lilly, W. C.	2	July 2, 3, 1960
Mertz, J. A.	1	July 2, 1960
Van Horn, J. H.	1	July 3, 1960
Fisher, J. G.	1	July 3, 1960
Kline, J. J.	3	July 2, 3, 5, 1960
Dorney, R. M.	3	July 1, 2, 3, 1960
Thatcher, R. W.	3	July 2, 3, 7, 1960
Mack, A. R., Jr.	4	July 1, 5, 6, 7, 1960
Sawaska, J. P.	5	July 1, 2, 4, 5, 8, 1960
Ryan, T. P.	4	July 3, 5, 6, 7, 1960
Searfoss, D. J.	3	July 5, 6, 7, 1960
Todora, J.	3	July 5, 6, 7, 1960

In conclusion, on the charge of a violation of the Scope Rule, the Carrier once more points out that the total number of cars handled, both interchange and local, dropped about 52% over the period in question from an equal period immediately preceding, and the number of cars weighed dropped 37% whereas the number of turns worked by the outside clerks dropped about 45%, which is a pretty good indication that they did all of the available work of the nature that they normally performed.

The Brotherhood also charges a violation of Rule 12:

"RULE 12. CHANGE IN DUTIES

(a) When there is sufficient change in the regularly assigned duties and responsibilities of a position, or in the character of the service required, the compensation for that position shall be subject to adjustment by agreement between the Company and the Local Chairman, but established positions shall not be discontinued and new ones created under the same or different titles covering relatively the same class or grade of work, which shall have the effect of reducing the rate of pay or evading the application of these Rules.

(b) When positions are abolished, any remaining duties shall be re-assigned through conference in accordance with paragraph (a) of this Rule."

A mere reading of the Rule shows its inapplicability here.

Finally, the Local Chairman, in his initial claim letter, charges a violation of "various sections of Rule 15 - Seniority", without specifying them. The Carrier therefore answers the charge generally: The basic purpose of the Seniority Rule is to give employes the right to work according to seniority. Here the claim of the Brotherhood is on behalf of the 13 junior-most outside clerks whose assignments were abolished. It is, of course, obvious from the lack of claims on behalf of the senior clerks that they worked as much time as they would have worked had their assignments not been abolished, demonstrating how effectively the Carrier divided the reduced amount of work equitably among the senior employes. This certainly meets the purpose of the Seniority Rule, and, the Carrier submits, is not inconsistent with any of the provisions of the Rule.

For all the reasons stated, it is the Carrier's position that the Brotherhood's claim is without merit and should be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: This case is the same in all material respects as in Award No. 12974.

We adopt the opinion therein as determinative of the issues in this case.

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 Employes involved in this dispute are respectively Carrier and Employes 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 14th day of October 1964.

**CARRIER MEMBERS' DISSENT TO
AWARD 12976, DOCKET CL-12871**

We dissent to this award for the reasons previously stated in our Dissent to Award 12974.

W. F. Euker
R. A. DeRossett
C. H. Manoogian
G. L. Naylor
W. M. Roberts

**LABOR MEMBER'S ANSWER TO
CARRIER MEMBERS' DISSENT TO
AWARD 12976, DOCKET CL-12871**

Our answer to Carrier Members' Dissent to this Award is the same as that which we state in our Answer to Carrier Members' Dissent to Award 12974, Docket CL-12597.

D. E. Watkins
Labor Member