

Award No. 13362
Docket No. CL-13720

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Preston J. Moore, Referee

PARTIES TO DISPUTE:

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

FORT WORTH AND DENVER RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5234) that:

1. Carrier is in violation of the current Rules Agreement when it unilaterally transferred and removed the work of servicing and supplying dining cars on trains 1 and 2, 3 and 4, and 7 and 8 from the scope of the Agreement. Transferring this work from the Store Department at Fort Worth, Texas to the employees not covered by Agreement; namely, dining car employees, to an outside firm at Dallas, Texas, and to the CB&Q Commissary at 23rd Street, Denver, Colorado, with additional laborer's work being transferred to Childress, Texas and assignment of some of the work to group (1) employees at Fort Worth and Dallas, Texas.

2. Carrier now be required to compensate Mr. B. F. Cowling and Mr. H. B. Dossey whose positions as laborers in the Store Department at Fort Worth were abolished to the extent of a day's pay for each and every work day at the rate of \$17.48 per day, in addition to their regular salary retroactive to date of abolishment, March 7 and 15, 1961 respectively, and forward until the work and their positions are restored and assigned in the Store Department at Fort Worth, Texas.

3. Carrier be required to pay Mr. Cowling and Mr. Dossey necessary living expenses for each and every day that they are required to remain in Childress, Texas away from their home terminal, amount to be determined by a joint check conducted by the Carrier and Organization representatives.

4. Carrier be required to compensate Mr. J. L. Longbine, whose position as laborer was abolished in the Store Department at

Fort Worth, Texas on or about February 6, 1961, to the extent of a day's pay, at his regular rate, for each and every work day his position remains abolished, retroactive to February 27, 1961 and forward until the work and position is restored in the Store Department at Fort Worth, Texas.

5. Carrier now be required to compensate Mr. W. C. Rippey, Laborer, and V. J. Hall, Head Laborer, and Mr. M. W. Walker, Derrick Operator, who lost their positions in Childress as a result of the rules violation to the extent of a day's pay at their regular rates for each and every day that they remain out of work retroactive to dates of displacement, which are March 7, 15, and 16, 1961, respectively; and in addition be required to compensate all other employees who are subsequently adversely affected by such violation to the extent of time lost or difference in rates of pay.

EMPLOYEES' STATEMENT OF FACTS: For many years the employees of the Fort Worth and Denver Railway Company in the Store Department at Fort Worth, Texas have performed and handled all necessary work in connection with the supplying and servicing of dining cars on passenger train Nos. 1 and 2 and 7 and 8 of the Fort Worth and Denver Railway operating between Denver, Colorado and Dallas, Texas; trains 3 and 4 of the Fort Worth and Denver Railway operating between Fort Worth and Houston, Texas; also diners on all Specials and Business Cars.

The force in the Store Department at Fort Worth on January 1st, 1961 was substantially as follows:

- 1 — Storekeeper
- 1 — Clerk
- 3 — Laborers

In February of 1958 the work of supplying and servicing of diners on passenger trains 1 and 2 at Fort Worth, Texas was removed from the scope of our current agreement and transferred to the Chicago, Burlington & Quincy Railroad Commissary at Denver, Colorado, the CB&Q supplying and servicing the cars for the round trip between Denver, Colorado and Dallas, Texas, except for linens, chinaware, silverware, and miscellaneous and emergency supplies. These supplies continued to be furnished through the Store Department at Fort Worth. One laborer's position was abolished at that time.

In September of 1959 the servicing of dining cars on passenger trains 7 and 8 was removed from the scope of our agreement and transferred to the CB&Q RR. Commissary at 23rd Street, Denver, Colorado. Again one laborer's position in the Store Department at Fort Worth was abolished.

The work of supplying and servicing of diners on trains 1 and 2 has been changed several different times between Fort Worth, Texas and Denver, Colorado since June 1958, and similar changes have been made in supplying and servicing of diners on trains 7 and 8; however, in February of 1961 the work of supplying and servicing of diners on trains 1 and 2 and 7 and 8, after having been returned to the Store Department of the Fort Worth and Denver Railway at Fort Worth, was again transferred to the CB&Q at Denver, Colorado. Concurrently therewith the Office of Supervisor of Dining Cars was moved from Fort Worth to Dallas, Texas, a distance of some thirty (30) miles and the work of supplying and servicing of dinig cars on passen-

for his work as well as perform the small amount of laborer's work remaining after March 16, 1961. This makes it abundantly clear that the store work had been greatly reduced, and does not exist in sufficient quantity to provide any reasonable amount of work for a laborer at Fort Worth.

The Organization also charged that some of the laborer's work formerly performed by claimants have been transferred to a Group (1) employee at Dallas. This employee is the steno-clerk to the Supervisor of the Dining Car Department, and is a female. Obviously, she is not physically capable of performing laborer's work. She does receive the invoices and requisitions, which are transmitted to the Store Department for further handling. This work has always been performed by the clerk in the Dining Car Department.

Summary

In summing up its principal points in defense of this claim, the Carrier has shown the following:

1. The allegations of fact upon which this claim is based cannot be proved. The positions abolished at the Fort Worth Store were the result of factors other than the changes made in principal supply points of dining cars on trains 1 and 2, 7 and 8, and 3 and 4.
2. It is not a violation of any provision in the collective bargaining agreement between the parties to change principal supply points for dining cars.
3. Direct deliveries of material from supplier to the user on the railroad is not prohibited by the schedule. It is a desirable method of handling supplies, which has been practiced in the Dining Car Department in the past.
4. The Organization's withdrawal of its position that the change from Fort Worth to Denver brought into play the Washington Job Protection Agreement, is conclusive evidence that this change did not constitute the removal of work from the scope of the agreement.
5. None of the claimants named herein suffered any loss by reason of the changes in principal supply points on the passenger train involved.
6. None of the rules cited by Petitioner lend any support whatever to this claim.
7. The contention that others are now doing the work formerly performed by claimants at Fort Worth is either not true or not an agreement violation.

Upon review and analysis of all these factors, the Board must conclude this claim is completely invalid. It must be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: The Petitioner contends that the Carrier removed work from the scope of their agreement and transferred it elsewhere.

The evidence in the record fails to disclose any proof that the work belonged exclusively to the Petitioner. To the contrary, there is evidence that they had been moved from one location to another several times. The Scope Rule is general in character. The Petitioner has failed to show, that by custom and practice on the property, the work belongs to them.

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 26th day of February 1965.