

Award No. 13371
Docket No. CL-13863

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**

THE KANSAS CITY TERMINAL RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of System Committee of the Brotherhood (GL-5301) that:

(a) The Carrier violated the rules of the current agreement between the parties when it arbitrarily removed J. C. Dill from the duties of his assignment December 3, 1961 and January 14 and 21, 1962, and;

(b) Because of such violation that J. C. Dill be paid one day's pay at his rate of pay as of the dates and for the dates set forth in paragraph (a) of this Statement of Claim.

EMPLOYEES' STATEMENT OF FACTS: As of the dates of the claims in this dispute J. C. Dill, the claimant, was the regular assigned incumbent of Mail Handler Relief Position No. 356A. On August 23, 1961, Position 356A was bulletined as a permanent vacancy and bids solicited as per Employees' Exhibit No. 1, being bulletin No. 556. The position was assigned to Dill by Assignment Bulletin No. 556, dated August 30, 1961, the assignment to be effective September 2, 1961, as evidenced by Employees' Exhibit No. 2.

However, Dill had held Position 356A previously on a temporary basis during the absence of the regular assignee. On May 16, 1961, Dill exercised displacement rights to a temporary vacancy on position 356A. On or about June 14 Dill took another position, but again exercised displacement rights to the position on July 25, 1961, on a temporary basis in the absence of regular incumbent John G. Blazer. Blazer bid off the position permanently, and Dill bid it in as per our Exhibits 1 and 2. Dill left the position on September 5, 1962.

The foregoing indicates that Dill held the position on a temporary basis for about six weeks before he bid it in permanently and held the position as the permanent occupant for a year, September 2, 1961 to September 5, 1962.

OPINION OF BOARD: The Claimant occupied the position of Relief Mail Handler No. 356A. One of the requirements of the position was to relieve the position of Mail Handler. The occupant of the Mail Handler position regularly loaded the mail on the Lincoln U. S. Mail Storage car of CB&Q train No. 21. The claim is made for 3 dates upon which the Carrier did not allow the Claimant to perform the work of loading the Lincoln Car, but was used to load other Burlington 21 cars in the same general area.

The Claimant had the same rights that the regular occupant of the position held.

The Claimant had the right and obligation to fill the position on Sundays and Mondays. If the regular occupant of the position had the exclusive right to load the mail on the Lincoln Car, then it would naturally follow that the Claimant would have the same right to do so on Sundays and Mondays.

We find no authorities which hold that the specific work of loading the mail on the Lincoln Car are duties which can only be performed by the occupant of this position. The bulletin which established the position was in general terms the loading and unloading of mail in the east and west ends of the sub-basement.

The work of the position is not itemized, and we find no authority which requires the bulletin to do so. If the work involved herein belongs exclusively to the position, the petitioner has failed to offer proof thereof. In the absence of such proof, the claim must be denied.

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.

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.