

Award No. 13645

Docket No. CL-14121

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Lloyd H. Bailer, 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-5327) that:

(a) The Carrier violated the Rules Agreement, effective May 1, 1942, except as amended, particularly Rule 3-C-2, when it abolished clerical position Symbol No. F-313, incumbent W. H. Martin, Jr., rate of pay \$444.50 a month, located at Ravenna, Ohio Station, Lake Region, effective with the close of business Friday, April 28, 1961.

(b) The position should be restored in order to terminate this claim, Claimant W. H. Martin, Jr., and all other employees affected should be restored to their former status (including vacations) and, effective May 1, 1961, be compensated for any monetary loss sustained under Rule 4-A-1 and Rule 4-C-1; be compensated in accordance with Rule 4-A-2 (a) and (b) for work performed on holidays, or for Holiday pay lost, or on the rest days of their former positions; 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 positions; 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 time of settlement (Award 7287). [Docket 1159]

EMPLOYES' 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 Claimant 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

To grant the claim 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 the Agreement. The Board has no jurisdiction or authority to take any such action.

CONCLUSION

The Carrier has shown that the actions here complained of did not violate the Rules Agreement, and that the Employees have presented no valid evidence to the contrary.

Therefore, the Carrier respectfully requests your Honorable Board to deny the Employees' claim in its entirety.

(Exhibits not reproduced.)

OPINION OF BOARD: On and prior to April 28, 1961, the force at Ravenna Station consisted of Agent Blumenstiel, whose position was not covered by the Clerks' Agreement, and Claimant Martin. The Claimant occupied clerical position F-313, which was covered by the Clerks' Agreement. This position was abolished effective with the close of business on Friday, April 28, 1961. Beginning Monday, May 1, 1961, the remaining work of the position was assigned to and was performed by the Agent. The confronting claim contends that Carrier violated the Clerks' Agreement by abolishing clerical position F-313 and assigning the remaining work to the Agent. Carrier responds that the disputed action was fully in accord with Rule 3-C-2 (a) of the Agreement.

Insofar as material, this rule declares:

"RULE 3-C-2.

(a) When a position covered by this Agreement is abolished, the work previously assigned to such position which remains to be performed will be assigned in accordance with the following:

- (1) To another position or other positions covered by this Agreement when such other position or other positions remain in existence, at the location where the work of the abolished position is to be performed.
- (2) In the event no position under this Agreement exists at the location where the work of the abolished position or positions is to be performed, then it may be performed by an Agent, Yard Master, Foreman, or other supervisory employe, provided that less than 4 hours' work per day of the abolished position or positions remains to be performed; and further provided that such work is incident to the duties of an Agent, Yard Master, Foreman, or other supervisory employe."

Since no other clerical position remained "in existence at the location where the work of the abolished position is to be performed" (paragraph (1) of the foregoing rule), it is apparent that the pertinent language appears in above-quoted paragraph (2). In accordance with said paragraph, the question thus becomes whether the remaining work of the abolished position

that was assigned to the Agent amounted to less than 4 hours' work per day, and whether said work was incidental to the Agent's duties.

We are satisfied from the evidence presented that the remaining work of the abolished clerical position amounted to less than 4 hours' work per day. We also conclude that this work was incidental to the duties of the Agent at this station. A denial award is required.

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 28th day of May 1965.