

**Award No. 14033**

**Docket No. MW-13719**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**(Supplemental)**

**Don Hamilton, Referee**

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**PARTIES TO DISPUTE:**

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES**

**CENTRAL OF GEORGIA RAILWAY COMPANY**

**STATEMENT OF CLAIM:** Claim of the System Committee of the Brotherhood that:

(1) The Carrier violated the effective agreement when it abolished the only position of Foreman of Water Supply on the Macon Division effective with the close of work Sunday, April 30, 1961, and instructed and permitted the work accruing to this position to be performed by others who hold seniority in seniority sub-department (e) Water Supply, and as a result thereof:

(2) Mr. B. J. Abrahamson be paid at the rate of pay of Foreman of Water Supply retroactive 60 days from the date of this claim and to continue until settlement of this claim is made. In addition thereto:

(3) The position of Foreman of Water Supply, Macon Division, be re-established in accordance with the provisions of the current agreement.

**EMPLOYEES' STATEMENT OF FACTS:** Claimant B. J. Abrahamson holds seniority as Foreman of Water Supply with seniority date of March 9, 1959 and was available and is qualified to perform duties of his classification. He has performed the duties of Foreman of Water Supply without interruption since the date of his established seniority.

The position of Foreman of Water Supply on the Macon Division is one of long standing as the Claimant's predecessor, Mr. R. H. Gwynes, who is deceased, worked the position without interruption from August 1, 1936 until he was injured in 1959, which resulted in his job being advertised February 16, 1959 and assigned to the Claimant March 9, 1959.

The agreement in effect between the two parties in this dispute dated September 1, 1949, together with supplements, amendments and interpretations thereto are by reference made a part of this Statement of Facts.

**THIRD DIVISION AWARD 10207**

(Referee McDermott)

"\* \* \* Here, the Organization has failed to meet its burden of proof. Awards 7793, 9552, 9788, 10048."

The claim was denied.

**THIRD DIVISION AWARD 10256**

(Referee LaBelle)

Claim that the removal of steel lockers from carrier's passenger station and installation in car barn was work which MofW employees should have performed, dismissed as "\* \* \* it is essential to Petitioner's case that it prove by specific evidence or controlling rules that the disputed work belongs exclusively to the Claimants named. Our examination of the record satisfies us that the Petitioner has neglected to support its contentions by competent evidence. (Citing Awards 9963, 9470, 8092, 9001 and 5869.) To hold otherwise, it would be necessary for the Board to make too many assumptions. The Board may be justified in leaving some things to assumption in some cases, but it would not be justified in leaving so many things to assumption as would be necessary for the resolution of the present case on the merits, on the record here presented. \* \* \*"

**THIRD DIVISION AWARD 10601**

(Referee Dolnick)

"Mere assertions by the Claimants' representatives cannot be accepted as proof. See Awards 8062 (McCoy), 6359 (McMahon), 9932 (Weston), 9788 (Fleming), 9674 (Johnson), and 9609 (Rose). In Award 9674 this Board said that 'self-serving declarations and general statements [are] of no real probative value'."

The claim was denied.

**THIRD DIVISION AWARD 10637**

(Referee LaBelle)

"\* \* \* We find Organization has failed to sustain the burden of proof on this claim, and it must be denied. (Awards 9211, 9621)."

And there are many other awards on this point. The Employees to date have not sustained the burden of proof.

In conclusion, Carrier reiterates that there is no rule in the agreement to substantiate any portion of the Employees' claim. The Agreement has **not** been violated. We emphatically deny the Employees' allegations, and we again challenge them to prove their charges.

In view of all the facts and circumstances shown by the Carrier in this Ex Parte Submission, Carrier respectfully requests the Board to deny this baseless claim in its entirety.

**OPINION OF BOARD:** In this case the Carrier abolished the position of Foreman of Water Supply on the Macon Division effective with the close of work Sunday, April 30, 1961. The Organization alleges that the work of the position remains and is being performed by others who hold no seniority

in seniority sub-department (e) Water Supply. The Carrier contends that the work of the position has disappeared with the final passing of the steam locomotive from its lines.

The burden of proof is on the Petitioner, and we hold that the Organization has totally failed to meet that burden in this case. There is not a single instance cited where work of the Foreman of Water Supply was performed by another employe, nor is any date given, or details of tasks performed, or any recitations of which employes are alleged to have performed the work of the Foreman of Water Supply. Therefore, the claim will be denied.

**FINDINGS:** The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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 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 17th day of December 1965.