



Award No. 14398
Docket No. CL-13075

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Edward A. Lynch, Referee

PARTIES TO DISPUTE:

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

ERIE-LACKAWANNA RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5113) that:

1. Carrier violated the Rules of the Clerks' Agreement at Ashland, Ohio, when it abolished the positions of Rate Clerk and Cashier, and assigned part of the remaining duties to the employees at Akron Freight Station, Akron, Ohio.

2. Carrier shall now be required to compensate employee A. D. Mumaw, four (4) hours each day at time and one-half rate retroactive to November 23, 1960 and all subsequent days until such time violation complained of is corrected. (Claim No. 1308)

EMPLOYES' STATEMENT OF FACTS: Prior to June 24, 1960, there was in existence at Ashland, Ohio Freight Office the following positions:

Agent
Chief Clerk
Rate Clerk
Cashier
Yard Clerk

Effective June 24, 1960, the force was as follows:

Agent
Chief Clerk
Yard Clerk

Effective June 24, 1960, the positions of Rate Clerk and Cashier were abolished, and the work of preparing form 607's (Freight Bills), inbound pro numbers, preparation of waybills, billing inbound and outbound covering all LCL shipments moving through the transfer was assigned to employees at Akron, Ohio. Subsequent to June 24, 1960, duties of rating were trans-

Dear Sir:

This has reference to Claim No. 1308 filed on behalf of A. D. Mumaw, Ashland, Ohio, for four (4) hours at time and one half retroactive to November 23, 1960, and all subsequent days account position of Rate Clerk abolished effective June 24, 1960 and the work of preparing and completing forms 607 on waybills covering LCL shipments handled through Akron destined Ashland, now being performed by employees at Akron, which claim was discussed in conference October 12, 1961.

The Carrier's position throughout the handling of this dispute on the property, which position was reiterated during conference, is that Rule 12 (d) of the applicable agreement has not been violated for the reason that the involved work did not remain to be performed at the location. In the instant case it was more practical and efficient to have all the work of preparing and completing the waybills and freight bills performed at Akron, rather than at Ashland. Carrier determines that it fully complied with the provisions of Rule 12 (d) when it assigned the work of the involved position that remained to be performed at Ashland to clerical positions at that location.

Particular attention is directed to the language contained in part (1) of Rule 12 (d) which reads 'where the work of the abolished position is to be performed.' (Emphasis ours.) It follows that with this work no longer 'to be performed' at Ashland, Carrier had every right to assign the work to clerical positions at Akron. Based upon the foregoing facts and reasons, Carrier reaffirms its decision during conference that this claim is without merit and is denied.

Yours very truly,

/s/ F. Diegtel"

OPINION OF BOARD: Organization here alleges the agreement was violated by the Carrier when it:

- (a) abolished the positions (at Ashland, Ohio) of rate clerk and cashier, and
- (b) assigned part of the remaining duties to employees at the Akron Freight Station.

Rule 12 relates to "reducing force", and section (d) of Rule 12 applies "when a position covered by this agreement is abolished."

In such event, the agreement clearly states that the work previously assigned to such abolished position which remains to be performed will be assigned:

"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."

Organization interprets Rule 12(d) to mean the work of the abolished positions which remained to be performed should be performed by clerks at Ashland.

Carrier states that the work of the abolished Ashland positions which remained to be performed was transferred to Akron because it "was more practical and efficient to have all the work of preparing and completing the waybills and freight bills performed at Akron rather than Ashland."

Our decision must turn on where the clerical work involved -- preparation and completion of waybills and freight bills -- was "to be performed" after Carrier's action subject to claim. The answer, obviously, is Akron. Rule 12(d) is prospective in nature, and a denial award is required. Award 13178 (Dorsey).

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 6th day of May 1966.