

Award No. 15145
Docket No. CL-15527

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Don Hamilton, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES
CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5764) that:

(1) Carrier violated the Clerks' Agreement at Aurora, Illinois freight warehouse during the period May 8 to June 10, 1964, when it required or permitted Burlington Truck Lines' employees to come into the freight warehouse to perform clerical work, transferring and delivering freight shipments from railroad cars set at the Warehouse platform.

(2) Harold Minnette, Freighthouse Foreman and L. A. Grothen, Trucker, shall now be compensated a three (3) hour call (straight time rate) for each of their assigned work-days Monday through Friday, and eight (8) hours at time and one-half rate of their respective positions on Saturdays, unassigned day of their assignments, and the Decoration Day holiday, during the period of the said violation May 8 to June 10, 1964.

EMPLOYEES' STATEMENT OF FACTS: Prior to May 8, 1964, the Carrier had set aside an area in its Aurora, Illinois freighthouse for use by the Burlington Truck Lines (hereinafter referred to as BTL) for the handling of truck line freight. This area was at one end of the warehouse and measured approximately 20 feet in depth by 30 feet in length, with doors opening only on the street side of the Warehouse. The BTL truck operators backed their vehicles up to the doors of the warehouse where they unloaded and transferred their truck billed freight in the area set aside for BTL freight handling.

Also prior to May 8, 1964, the handling of freight from the railroad cars set at the warehouse platform and throughout the rest of the warehouse was performed by the claimants, except operators of vehicles (BTL employees) arriving at and departing with railroad pickup or delivery rail freight, unloaded and loaded their lading inside the doors of the warehouse, on the street side, in an area 7 feet in depth.

From May 8 to June 10, 1964, the amount of freight received at this station in freight cars increased to the extent that the claimants were unable to handle it without working overtime and on their rest days. An extra list

At conference on October 22, 1964, the Committee proposed to the Carrier that a joint statement of facts in this case be entered into. The request was emphatically declined by the Carrier even though the parties were in close agreement on the facts involved.

In correspondence to the General Chairman under date of September 28, 1964, declining the claim, also letter of October 27, 1964, the Carrier referred to a strike of certain employees of the All Steel Equipment Company plant as extenuating the Carrier's actions in this case.

(Exhibits not reproduced.)

CARRIER'S STATEMENT OF FACTS: All-Steel Equipment, Inc., is one of the prominent industries and a principal shipper located on the Burlington Lines at Aurora, Illinois. The employees of this industry went out on strike and the premises were picketed from May 8 to June 10, 1964.

The All-Steel plant ships merchandise and receives materials for manufacture via both the railroad and the Burlington Truck Lines, a wholly owned subsidiary of this Carrier. The employees of the Burlington Truck Lines are represented by the Teamsters Union.

Because of the strike situation at the All-Steel plant, the truck drivers refused to cross the picket lines to enter the plant and spot the trailers for loading of the freight that had been billed via Burlington Truck Lines. Officer crews of the railroad continued to spot railroad cars into this plant for unloading materials and loading out products that had been billed by this shipper. In view of the emergency situation that existed, this shipper requested that they be permitted to load both truck freight and rail freight into these box cars which would then be switched out of this industry and spotted at the railroad freight house, a distance of about 3 miles, where the truck freight could be removed by the truck line employees and re-loaded into the trailers to be trucked to the destination as billed. The Carrier agreed to this handling with the understanding that only freight billed for truck shipment would be handled by the truck line employees at the Aurora freight house.

The current schedule of rules Agreement effective January 1, 1961, is on file with the Board and by this reference is made a part of the Carrier's submission.

OPINION OF BOARD: The parties herein are not in complete agreement as to facts which gave rise to the instant dispute. However, we find that the case is based primarily on the following circumstances.

The Burlington Truck Lines (BTL) is a wholly owned subsidiary of the Chicago, Burlington and Quincy Railroad Company (Carrier). All-Steel Equipment, Inc. (Industry) is a shipper located on the Burlington Lines at Aurora, Illinois. The Industry receives raw materials and ships merchandise via both the Carrier and the BTL.

The employees at the Industry went on strike and the plant was picketed from May 8, 1964 to June 10, 1964. The Teamsters Union employees of the BTL would not cross the picket lines. Officer crews of the railroad spotted cars into the plant for unloading and loading purposes.

Industry requested that it be permitted to load truck freight and rail freight into the boxcars which would then be switched out of the Industry and spotted at the carrier freighthouse. The truck freight would then be removed by the BTL employees and re-loaded into the trailers to be trucked as billed.

As a basis for this claim, the Organization asserts, that prior to May 8, 1964 the Carrier had set aside an area at the freighthouse for use by BTL in handling truck line freight. This area was located in a space some 20 feet in depth by 30 feet in length. The BTL truck operators were restricted to backing their vehicles up to the doors where they unloaded and loaded their lading in an area 7 feet in depth. From May 8, 1964 to June 10, 1964, the Organization argues that the Carrier required the BTL employees to unload the lading from the freight cars and handle it throughout the entire area of the warehouse to their trucks and trailers, all in violation of the Scope Rule of the Agreement, Rule 36(k), Work on Unassigned Days, and Rule 42, Authorizing Overtime.

The Carrier contends that there is no work involved in this claim which was within the jurisdiction of the railroad employees. They assert that an emergency conditions resulted from the strike, and that it was proper for the Carrier to permit the BTL to utilize the railroad's equipment and facilities.

We find that the shipments in question were billed as truck freight and that none of the shipments were consigned to the freighthouse for handling. We find that such shipments as were billed via the BTL did not encompass work covered by the Clerks' Agreement. Therefore, the work in question in this case was not such as could have been assigned to the Claimants' by the Carrier.

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 17th day of January 1967.

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