

Award No. 15495
Docket No. TE-14392

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Daniel House, Referee

PARTIES TO DISPUTE:

**TRANSPORTATION-COMMUNICATION EMPLOYEES UNION
(Formerly The Order of Railroad Telegraphers)**

CINCINNATI UNION TERMINAL COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Cincinnati Union Terminal Company, that:

1. The Carrier violated the Agreement between the parties when March 26, 1962 and each subsequent day thereafter, it required and/or permitted and continues to require and/or permit employes not covered by the Telegraphers' Agreement to perform work at the Cincinnati Union Terminal which is reserved exclusively to employes covered thereunder.

2. The Carrier further violated the Agreement between the parties when it abolished the positions at GC Office, Cincinnati Union Terminal without in fact abolishing the work at that location.

3. The Carrier will now compensate each of the Telegraphers previously employed by the Cincinnati Union Terminal Company assigned to the positions at GC Office (C. W. McClain, H. J. Gang, C. F. Durbin, E. A. Walsh, Hugh E. West, Harry M. Gilton, Howard Quinn), eight (8) hours' pay for each day and forty (40) hours' pay for each week they are denied the right to perform service at GC Office.

4. The Carrier shall restore all seven (7) positions at GC Office and restore all employes previously assigned at that location to the positions they occupied prior to the abolishment of the positions.

EMPLOYEES' STATEMENT OF FACTS: The Agreement between the parties, effective January 1, 1955, as amended and supplemented, is available to your Board and by this reference is made a part hereof.

The Cincinnati Union Terminal Company was incorporated in the State of Ohio on November 12, 1927. The Company operates a Union Passenger

Trainmaster Roadcup replied in letter dated July 20, 1962 (Carrier's Exhibit No. 3), in which he pointed out that these positions were abolished March 1, 1962, the claim was dated May 26, 1962, and, therefore, the claim was barred under the provisions of applicable time limit rules for presentation of claims. He also denied that there had been any violation of the rules of the Agreement, and denied the claim.

In letter dated August 9, 1962 (Carrier's Exhibit No. 4), General Chairman Walsh argued that his claim in regard to abolishment of these positions was a continuing claim which could be presented at any time, and stated that Trainmaster Roadcup's declination was unacceptable, and that an appeal would be made.

In letter dated August 28, 1962 (Carrier's Exhibit No. 5), General Chairman Walsh referred to the previous correspondence, outlined his position, and appealed the claim to Acting Manager J. E. Duncan.

Manager G. S. Gray denied the appeal in letter dated October 24, 1962 (Carrier's Exhibit No. 6), again pointed out that the claim was barred by time limits, and that the abolishment of the positions of GC Office effective March 1, 1962 could not be considered a continuing claim. Without waiving his position that the claim was barred by time limits, Manager Gray stated that it was Carrier's position that the abolishment of unneeded positions was not a violation of the Agreement, and he respectfully denied the claim.

General Chairman Walsh replied in letter dated December 14, 1962 (Carrier's Exhibit No. 7), in which he argued that the claim was a "continuing claim", and stated he could not agree with the Carrier's position.

Manager Gray answered in letter dated January 2, 1963 (Carrier's Exhibit No. 8), reiterating Carrier's position that the claim was barred and pointed out that the Organization had failed to establish any rule violation, and that the General Chairman's vague and unsupported allegation that Carrier had given the Operator's work at GC Office to other crafts and personnel could not be supported as Carrier had merely abolished unneeded and unnecessary positions when the work at GC Office ceased to exist.

The next development in the case came with the filing of President Leighty's letter of July 19, 1963 of notice of intent to file an ex parte submission with the Third Division, National Railroad Adjustment Board.

(Exhibits not reproduced.)

OPINION OF BOARD: Employees fail in this record to prove the occurrence of the events complained about in Item 1 of the Claim. The abolishment of positions complained about in Item 2 of the Claim took place on March 1, 1962, and the claim was first filed on May 26, 1962, which was not a timely filing. Consequently, we shall deny the Claim.

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 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 19th day of April 1967.