



Award No. 15552
Docket No. CL-15858

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Nathan Engelstein, Referee

PARTIES TO DISPUTE:

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

TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5867) that:

(1) The Carrier violated the Clerks' Agreement when on February 22, 1965, Washington's Birthday, it permitted an employee of another class and craft to perform work at the Brooklyn Store of the Carrier which work is regularly performed by employees of our class and craft.

(2) The Carrier now be required to pay Charles Hayden one day's pay at punitive rate account of failure to call him to perform routine Stores Department work on February 22, 1965.

EMPLOYEES' STATEMENT OF FACTS: The Brooklyn Store of the Carrier is its main and principal storeroom, where supplies for practically all departments of the Carrier are received, stored and distributed on order to the various departments. The work force at this Store consists of the following:

H. C. Gorsuch, Storekeeper
W. E. Reany, Chief Clerk
Thomas Christopher, Clerk
W. J. Smith, Foreman
L. C. Shelton, Foreman-Derrick
Charles Hayden, Groundman-Derrick
John Hummel, Stockman
Harry Tiry, Stockman
Stanley Durawski, Stockman
John Till, Chauffeur
George Mumphard, Chauffeur

Stores Department employees to process the dray tickets and handle all the materials delivered, including those items handled by Mr. Shirley, the next day.

In consideration of all the circumstances in this case, the claim is without merit and is respectfully declined."

The wages and working conditions of the claimant in this dispute are covered by Schedule Agreement between the parties effective January 1, 1950, copy of which is on file with this Division of the National Railroad Adjustment Board.

(Exhibits not reproduced.)

OPINION OF BOARD: On Washington's Birthday, February 22, 1965, a legal holiday, Carrier blanked the positions of the work force at its Brooklyn Store. Five companies from whom Carrier purchased merchandise, however, made deliveries on this day. The shop watchman received the merchandise and signed the dray tickets and receipts for it. He also placed some of the lighter packages in the Store Room.

The Brotherhood contends on behalf of Charles Hayden that Carrier violated the Clerks' Agreement when it permitted the shop watchman not subject to the Clerks' Agreement to do work which is regularly performed by members of its craft.

Carrier denies the claim, contending that the work performed by the watchman was trivial, and did not deprive any of the Stores Department employees of work, for upon their return to work from their legal holiday absence they performed their normal duties in relation to the deliveries. Furthermore, it argues that the work in question does not belong exclusively to the clerical craft, and that the watchman of his own volition accommodated the companies making deliveries by accepting the merchandise. It also asserts that Mr. Hayden is not the proper claimant, inasmuch as he was not the next person in line to be called if there were merit to the claim.

Although Carrier blanked the Store Room employees' positions on the Washington's Birthday, this holiday is not recognized as a legal holiday by many business firms, among whom were those who made deliveries of merchandise that Carrier had previously ordered. Since Carrier failed to notify these concerns that the Brooklyn Store Room was closed, it had a responsibility to have a clerical employee on duty to receive the shipments.

The work which the shop watchman performed was work regularly done by Store Room employees subject to the Clerks' Agreement. The contention that the work under consideration was slight in amount and did not seriously affect the Store Department employees is not a valid argument that absolves Carrier from permitting other employees to perform work that belongs to the clerical craft under the Agreement.

Inasmuch as Mr. Hayden was a member of the work force at the Brooklyn Store and is the only claimant, we regard him as the proper claimant.

We hold that the Agreement was violated, and compensation as requested is allowed.

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 violated.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 5th day of May, 1967.