



Award No. 15680
Docket No. CL-15704

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Nathan Engelstein, Referee

PARTIES TO DISPUTE:

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

CENTRAL OF GEORGIA RAILWAY COMPANY

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

(1) The Carrier violated and continues to violate the rules of the Miscellaneous Employes' Agreement, effective June 30, 1960, as amended, when without conference or agreement it arbitrarily and unilaterally abolished the position of Car Cleaner at Rome (Krannert), Georgia and transferred the work attached to this position as of April 6, 1964, to the Southern Railway Company at Rome (Krannert), Georgia; and,

(2) Laborers J. E. Menifee and M. C. Sherman and/or the persons who may have been working on their positions on temporary basis, shall be reimbursed for all salary losses from April 6, 1964 and have all other rights resorted which are contemplated by the Agreement, this claim to remain in effect until all work and/or positions are resorted to Central of Georgia Laborers' performance; and,

(3) All of those Laborers on the Columbus Division who have been displaced as a result of this action shall be likewise compensated in full for all wage losses and have all other rights restored to them in the same manner; and,

(4) All of the employes affected shall, if the work remains transferred to the Southern Railway Company, have their seniority "dovetailed" in such manner that they shall not lose any seniority rights as result thereof; and,

(5) All other conditions attached to the Miscellaneous Employes' Agreement of June 30, 1960, as amended, shall apply to these Laborers and/or their successors; and,

(6) The records of the Carrier shall be checked to determine in complete detail all of the foregoing information.

OPINION OF BOARD: For the reasons set forth in Awards 15679, 15028, 15460, and 15477, we hold the Agreement was violated and compensation is allowed to make Claimants whole according to the guidelines followed in these Awards.

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 violated.

AWARD

Claim sustained in accordance with above Opinion.

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

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 23rd day of June 1967.

CARRIER MEMBERS' DISSENT TO
AWARD NO. 15679, DOCKET CL-15670
AWARD NO. 15680, DOCKET CL-15704
AWARD NO. 15681, DOCKET CL-15705
AWARD NO. 15682, DOCKET CL-15706
AWARD NO. 15683, DOCKET CL-15707
AWARD NO. 15684, DOCKET CL-15859
(Referee Engelstein)

The Carrier Members respectfully dissent from these awards in general, and in particular from so much of the awards as is concerned with the majority's assumption of jurisdiction. The majority, when rendering the awards, based this jurisdictional assumption upon the reasoning in Awards Nos. 15028, 15087 and 15460. Such a basis is not well founded.

In Award 15460, Referee Ives based his conclusion that this Board had jurisdiction of a related but unsimilar matter solely upon the prior decisions forming Awards 15028 and 15087. The tone of the opinion rendered by Referee Ives is one of uncertainty, and the opinion all but invites further litigation. The Carrier Members filed at dissent to that award.

Dissents were also filed in Awards 15028 and 15087. Each of those dissents dealt with the issue of jurisdictional assumption. While it is not the purpose of this dissent to consolidate the dissents which were filed in these two instances, so much of each dissent as attacks the exercise of this Board's jurisdiction is hereby adopted by reference for the purpose of explaining why these decisions are so clearly incorrect as to be termed "palpably in error."

R. A. DeRossett
W. B. Jones
C. H. Manoogian
J. R. Mathieu
W. M. Roberts