



Award No. 15758  
Docket No. CL-16026

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

Don Harr, Referee

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**PARTIES TO DISPUTE:**

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

**GEORGIA AND FLORIDA RAILWAY COMPANY**

**STATEMENT OF CLAIM:** Claim of the System Committee of the Brotherhood (GL-5852) that:

(1) The Carrier violated the rules of the Clerks' Agreement of October 1, 1957, as amended, when on or about July 1, 1963 it arbitrarily and unilaterally abolished the position of Night Watchman at Douglas, Georgia Shops, assigned 12:00 midnight to 8:00 A.M., Saturdays through Wednesdays, rest days Thursdays and Fridays, and then occupied by Clerk E. Z. Holton who had exercised seniority on same, rate \$1.65 per hour, or \$13.20 per day, and hired in lieu of this employe a Mr. C. W. Flanders, a relative of the County Sheriff, and used him to perform all of the duties which had been incumbent upon the Night Watchman at Douglas, Georgia Shops, and that, therefore

(2) Mr. E. Z. Holton shall now be paid beginning July 3, 1963 and continuing through June 16, 1964, or the date that the Watchman's service was discontinued at Douglas, Georgia Shops, but on a seven day per week basis for all time so worked by Mr. Flanders, an employe not covered by the Clerks' Agreement of October 1, 1957, as amended.

**EMPLOYEES STATEMENT OF FACTS:** For many years there existed at Douglas, Georgia Shops of the Carrier a position of Night Watchman which had been occupied by Mr. Simon McClelland, an employe covered by the Clerks' Agreement and who has seniority rights as of January 1, 1953. This assignment worked from 12:00 midnight to 8:00 A.M., Saturdays through Wednesdays, with rest days of Thursdays and Fridays, and a Mr. W. M. Smith, a Night Machinist, not covered by the Clerks' Agreement, looked out after the duties of this position on Thursdays and Fridays and Mr. Smith's assigned hours were from 5:00 P.M., until 1:00 A.M., Mondays through Fridays. In short, the position was supposed to be blanked on Thursdays and Fridays but was not in fact blanked in that it was covered by Machinist W. M. Smith as hereinbefore outlined. This position was abolished on or about July 1, 1963 after Clerk E. Z. Holton, who had theretofore been employed at Douglas, Georgia Freight Agency and who had been displaced by the exercise of seniority on the part

either Thursday or Friday. Assigned hours of the position were 12:00 Midnight to 8:00 A. M., Saturday through Wednesday.

All positions and work at Douglas, Georgia shop were abolished by proper bulletin notice effective July 1, 1963. Every job from that of Master Mechanic on down was eliminated, along with all work. Padlocks were placed on all doors and gates at the shop. As a natural consequence, local law enforcement officers were notified of the closing of the shop by Mr. D. O. Layne, Carrier's Supervisor of Special Service who is in charge of property protection over the system. It is a fact that on and after July 1, 1963 no one performed the duties formerly performed by claimant E. Z. Holton.

As heretofore shown, on July 2, 1963 claimant (seniority date June 24, 1947) claimed the position of Cashier-Utility Clerk at Douglas, Georgia Freight Agency; however, clerk Bernard Drew (seniority date September 23, 1925) also claimed the Cashier-Utility Clerk position at Douglas, Georgia Freight Agency. Mr. Drew being senior to Mr. Holton, was awarded the position, in keeping with the rules. Mr. Holton was not notified, and was not permitted to occupy that position.

Claimant Holton on July 12, 1963 claimed the position of Cashier-Utility Clerk at Vidalia, Georgia Freight Agency, stating he would advise later when he would go to work on the Vidalia job.

Claimant Holton on July 23, 1963, again wrote General Superintendent L. J. Waters stating that:

"Account of my job abolished July 1st, 12:01 A.M., 1963 and me claiming clerk jobs at depot Douglas and I was pulled July 8th, 1963, then I claimed Utility Clerk's job at Vidalia, Georgia.

I have checked into this job and found that I cannot qualify for this job and would like to be put on furlough and one year's separation pay, as I am withdrawing my claim on the Vidalia job."

The foregoing letter was written without Mr. Holton consulting any officer of the Carrier as to whether he was qualified or not. Mr. Holton failed to occupy the position at Vidalia, Georgia for reasons best known to Mr. Holton. He most certainly was **not** disqualified by the Carrier.

The schedule agreement of the craft and class of employees represented by the Brotherhood on this Carrier is effective October 1, 1957, as amended. Copies are on file with your Board.

(Exhibits not reproduced.)

**OPINION OF BOARD:** Prior to July 1, 1963, Claimant occupied the position of Night Watchman in the Mechanical Department Shop at Douglas, Georgia. Effective July 1, 1963, all shop operations at Douglas were discontinued and Claimant's position was abolished. The Employees allege that the work of the position remained and was performed by a person holding no seniority under the Clerks' Agreement. The Carrier contends that the work of the position had been abolished and the shop area was patrolled by a Sheriff's deputy as a part of normal police protection.

The burden of proof is on the Petitioner, and we find that the Employes have failed to meet that burden in this case. The Employes make numerous statements and assertions but submit no probative evidence to support their claim. Therefore, the claim will be dismissed.

**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 Employes involved in this dispute are respectively Carrier and Employes 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 claim should be dismissed for failure of proof.

#### AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of THIRD DIVISION

ATTEST: S. H. Schulty  
Executive Secretary

Dated at Chicago, Illinois, this 21st day of July 1967.