

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Robert A. Franden, Referee

PARTIES TO DISPUTE:

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

TENNESSEE CENTRAL RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6280) that:

(1) The Carrier violated the Agreement when on August 26, 1966, it refused to notify Mrs. Dorothy S. Williams of the Brotherhood's Citation for non-compliance of the Union Shop Agreement as required by Section 5 of the Agreement of September 27, 1957, (Union Shop).

(2) The Carrier shall now be required to notify Mrs. Dorothy S. Williams, in accordance with the terms of The Agreement.

EMPLOYEES' STATEMENT OF FACTS: There is an Agreement in effect between the Tennessee Central Railway Company and its Clerical employees dated September 27, 1957, known as the Union Shop Agreement.

On May 28, 1966 Mrs. Dorothy S. Williams began her tour of duty as a new clerk in the office of the Terminal Agent at Nashville, Tennessee, listed on the register sheet as an Apprentice Clerk. In due course she was contacted by Union Personnel and invited to join the Brotherhood and on July 25, 1966 was given an application for membership in the Brotherhood by Mr. L. A. Lawrence, Vice President of Local Lodge 897. She returned this application marked "Personal Office Force."

On August 18, 1966, the General Chairman, Clarence A. Head wrote Mrs. Dorothy Williams advising that she was required by the agreement to become a member of our organization upon working the required time. (Employees Exhibit No. 1). She advised the General Chairman on August 18, 1966, that she had been reclassified as a Stenographer on the Personal Office Force. (Employees Exhibit No. 2).

She was again advised to comply with the Agreement on August 22, 1966 (Employees Exhibit No. 3). And on August 23, 1966, she again refused to comply with our Agreement. (Employees Exhibit No. 4). On August 24, 1966 the General Chairman cited the employee Mrs. Dorothy S. Williams to Man-

In letter dated September 2, 1966, reproduced as Carrier's Exhibit No. 4, the General Superintendent pointed out that the General Chairman's allegations with respect to Mrs. Williams' employment and service were contrary to the record and not supported by evidence and categorically denied them, supplied the General Chairman with factual data from the record to clarify her status and further explained his reasons for regarding the General Chairman's August 24, 1966 notice as invalid.

The dispute was thereafter appealed to and handled with the Director of Personnel as is reflected in correspondence reproduced and appended hereto marked Carrier's Exhibits Nos. 5 to 13, inclusive. In the conference confirmed by the Director of Personnel's letter shown in Carrier's Exhibit No. 13, this case and Employees' May 18, 1966 claim now pending before your Board under Employees' file GL-6285 were handled together as the parties were in accord that bona fide Personal Office Force employees are not covered by the Union Shop Agreement or subject to citation for non-compliance therewith and that the Union Shop Agreement applies to employees covered by the Clerks' Agreement occupying positions, such as that of Cashier, subject to the bulletining and displacement rules and they are required to comply therewith so that disposition of both disputes turned on the single question of whether or not Mrs. Williams was actually employed as an apprentice clerk but occupying the position of Cashier in the Terminal Agent's office as charged by Employees in case covered by their file GL-6285 and denied by Carrier.

The agreements between the parties are on file with your Board and included herein by reference but for convenience copy of the Union Shop Agreement and Carrier's notice to its employees subject to agreements with the signatory Organizations in connection therewith are appended hereto as Carrier's Exhibit No. 14.

(Exhibits not reproduced.)

OPINION OF BOARD: Award No. 6744 dealt with a dispute concerning the application of the Union Shop Agreement. We are in full accord with the principles set out therein.

There is in effect between the parties herein an Agreement dated September 27, 1957 known as the Union Shop Agreement. That Agreement contains provisions governing the procedure to be followed in resolving disputes thereunder. There is a provision in said Agreement (Section 5) requiring the carrier, upon the request of the organization, to give notice to an individual employe that organization claims is subject to the agreement that the organization is citing said employe for non-compliance.

In Award No. 6744 we held that the carrier could not arbitrarily refuse to give the notice to the employe simply on the basis of the carrier's claim that the employe is not subject to the Union Shop Agreement. This is what the Carrier has done in the dispute at bar and in doing so has violated the Agreement.

As set out in Award 6744 and Award 7085, the proper procedure for this Board to follow is to remand the matter to the property for proceedings consistent with the findings of this Board and the terms of the Union Shop Agreement. This matter is hereby so remanded.

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

- 1) Sustained as per Opinion and Findings.
- 2) Remanded in accordance with our Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 27th day of September 1968.