Award No. 16988
Docket No. CL-17743

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Morris L. Myers, Referee

PARTIES TO DISPUTE:

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

RICHMOND, FREDERICKSBURG AND POTOMAC RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6462) that:

1. The Carrier violated the Clerks' Agreement beginning April 8, 1967, when it hired and placed employes on the extra list of Potomac Yard, in violation of the Agreement of September 9, 1966.

2. The Carrier shall now be required to compensate the following adversely affected employes at the pro rata rate of $25.89 for each and every day of the violation:

Walter D. Hearn for April 24 (2), April 25, 26, 27, 28 and 29, 1967, May 1, 8, 15 and 16, 1967.

Glenn McMinn for April 17 (2), April 18, 20 (2), 21 (2), May 3, 4 (2), 5 (2), 7, 8, 9 (2), 10, 11 (2), 12, 17, 19 (2) and 21, 1967.

C. L. Simpson for April 8, 9, 16, 17, 21, 22, 28 and 29, May 1, 2, 5, 6, 8, 11, 12, 13, 15, 18, 19, 20, 22, 25, 27, 28 and 29, 1967.

J. A. Martineau for April 30, May 19 and 20, 1967.

C. R. Glover for April 15, 17 (2), 18, 19, 20, 21 (2), 22 (2), 23, and May 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 18 (2), 19 and 20, 1967.

J. E. Favill for April 24 (2), 25, 27, 28 and 29, and May 1, 6, 7, 13, 14, 15, 18, 20 and 21, 1967.

Harry H. Thompson for May 18 and 20, April 27 (2), 28 (2) and 29, 1967.

EMPLOYES' STATEMENT OF FACTS: Prior to March 31, 1967, there existed among others, three positions designated as Utility Number Clerk, working around the clock in Potomac Yard, and also one position designated as Relief Utility Number Clerk, which was used to relieve the other three positions.

The principle duties and responsibilities of these positions were as follows:

(1) To physically check all Pennsylvania Railroad and Baltimore and Ohio Railroad trains arriving in Potomac Yard, recording car initials and numbers, and checking car seals to determine loaded or empty cars.

(2) To physically check all "hold-tracks," both northbound and southbound daily to maintain a correct list of cars for releasing at various times of the day.

(3) To physically check all "cab-tracks" for yard crews to align crew assigned cabooses.

Northbound trains pulling through a closed circuit television shed are recorded by audio tape, by a clerk assigned to office duty. However, on occasion, due to camera or tape failure, northbound trains are not recorded and the Utility Number Clerk would make a physical check of the train.

Potomac Yard, being an interchange point between the north and south, requires that seven day clerical positions be continuously manned around the clock. It is a three shift operation with regularly established relief positions. To insure that all positions are continuously manned, an extra list was established prior to 1927. It is the responsibility of the extra employes to fill the vacancies when encumbents are absent, in addition to filling extra assignments. There is in excess of fifteen different types of positions on Potomac Yard, each position requiring a separate and distinct qualification.

Due to some extra employes not being qualified on more than one or two positions and no rule requiring them to learn more than one position, Carrier requested a letter of understanding whereby all new employes would be required to train on two inside clerical positions and then qualify on number checking duties prior to their being placed on the extra list. This understanding was reached and agreed September 9, 1966. See Employes' Exhibit (a).

On March 24, 1967, the Superintendent of Potomac Yard posted a notice abolishing all Utility Number Clerk positions, effective 11:59 P. M., March 31, 1967. See Employes' Exhibit (b).

On May 30 and 31, 1967 and on June 2, 1967, employes filed claims for violation of Agreement dated September 9, 1966, wherein Carrier hired male and female employes, qualified these employes on two inside clerical positions and placed them on the extra list without first requiring them to post on the duty of number checking. See Employes' Exhibits (c), (d), (e), (f), (g), (h) and (i).

handle a claim on that basis. In my opinion, there is no basis under any agreement for a claim that an extra employe was improperly used on any clerical work because you did not consider him qualified for a Number Checker position. The determination of qualifications is a Carrier prerogative, and as we consider these employes to be qualified to do number checking, there is no validity to your claim and it is accordingly denied."

This claim has been handled in the usual manner on the property, without adjustment.

(Exhibits not reproduced.)

OPINION OF BOARD: For years prior to April 1, 1967, the Carrier had a classification of Number Checker at its Potomac Yard, the major responsibility of incumbents in that classification being the physical checking of cars entering or staying in the yard, including the recording of car initials and numbers. The Carrier and the Organization had entered into an Agreement dated September 9, 1966 by which terms an employe of the Carrier represented by the Organization would not be placed on the extra list until he had qualified in two positions other than Number Checker and had also qualified as a Number Checker.

On April 1, 1967, the Carrier abolished the Number Checker positions because of technological changes that made physical checking of cars unnecessary except on relatively infrequent occasions. After abolishing the Number Checker classification, the Carrier placed a number of employes represented by the Organization on the extra list after they qualified in two positions.

The claims in this case are on behalf of employes represented by the Organization who had qualified as Number Checkers prior to April 1, 1967. The claims are predicated on the theory that they are entitled to pay for work that was provided to employes who were placed on the extra list after April 1, 1967 because such latter employes should not have been placed on the extra list until they had qualified as Number Checkers or, in the alternative, in the duties of Number Checker that remained after the elimination of the Number Checker classification.

It has already been decided by this Board in Award No. 16597 that it was not violative of the Agreement for the Carrier to abolish the Number Checker classification. That being so, it is obvious that the Carrier did not violate the September 9, 1966 Agreement by not qualifying employes in a position which no longer existed and which has been found to have been properly abolished. So much for qualifying for the position of Number Checker. But there is left the issue of the propriety of placing employes on the extra list after April 1, 1967 before they were qualified in the duties of Number Checker that remained after that position was abolished.

As to this issue, it is possible to interpret the Carrier's position on the property as being inconsistent. In the earlier stages of this dispute, the Carrier seemed to say that qualification in the number checking duties that remained was not necessary after the Number Checker classification was abolished. On the other hand, in the latter stages of the dispute, the Carrier maintained that the employes who had been placed on the extra list after April 1, 1967 were in

fact qualified to perform the duties of the Number Checker position that remained after its elimination.

If the Carrier's contention is sound that these employes were qualified to perform the car checking duties that remained before they were placed on the extra list, it is unnecessary for this Board to consider the question of whether it was required to qualify them in those duties. We address ourselves, therefore, to this factual issue and the positions of the Carrier and Organization, respectively, related thereto.

The Carrier supported its contention by an affidavit dated November 10, 1967 certifying "that each clerical employe hired at Potomac Yard since the abolishment of Number Checker Positions is, and has been, qualified to perform any and all number checking that may arise at Potomac Yard." The Carrier did not substantiate this certification by evidence that any such employe did in fact perform number checking duties at the Potomac Yard during the period in question. On the other hand, the Organization did not present any evidence that employes who had qualified as Number Checkers prior to April 1, 1967 performed number checking duties during the period in question to the exclusion of employes put on the extra list after April 1, 1967.

In fact, the Organization based its entire case on the premise that an employe could not possibly qualify in number checking duties without the employes' first having been given a physical tour of the yard, and it was established that the employes placed on the extra list after April 1, 1967 had not been given such a tour during the period in question. To this contention, the Carrier responded by stating that an employe did not need to be toured through the yard in order to qualify in number checking duties — that the employe could and did qualify either by being shown a map of the yard in the office, or by being directed by a supervisor where to go in the yard when and if number checking was required.

The Board is persuaded that the Carrier's position should be upheld in this regard. There is no question but that only on-the-spot directions are necessary in order that any employe with average intelligence can perform number checking duties without ever having been given a tour of the yard in advance. Furthermore, any such employe could with little or no difficulty learn the location of tracks in the yard by simply looking at a map of the yard while in the office. We, therefore, find that the employes placed on the extra list after April 1, 1967 were in fact qualified to perform number checking duties.

Having made this finding, it follows that the claims in this case are without merit and we shall so hold.

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 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 Agreement was not violated.

AWARD

Claims denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 20th day of February 1969.

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