Award No. 17054
Docket No. CL-17680

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

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY (Eastern Lines)

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6432) that:

(a) Carrier violated the provisions of the current Clerks' Agreement when on April 11, 1966, it arbitrarily and unilaterally removed work of handling LCL freight heretofore performed by employes on the Illinois Division Station Department Seniority District and transferred such work to employes of the Store Department Seniority District; and,

(b) Carrier shall now restore such work to the Illinois Division Station Department Seniority District from which transferred; and,

(c) D. R. Buckley, Trucker, and/or his successor/successors, shall now be paid in addition to any other compensation received, four (4) pro rata hours at the rate of Trucker for April 11, 1966, and each work day thereafter until violation is corrected; and,

(d) G. F. Mahoney, Warehouse Clerk, and/or his successors, shall now be paid in addition to any other compensation received, four (4) pro rata hours at Warehouse Clerks' rate, for April 12, 1966, and each work day Tuesday through Friday thereafter until violation is corrected; and,

(e) J. A. Wiemer, Relief Clerk, and/or his successor or successors, shall now be paid in addition to any other compensation received, four (4) pro rata hours at Warehouse Clerks' rate, for April 11, 1966, and each Monday thereafter until violation is corrected.

EMPLOYES' STATEMENT OF FACTS: Prior to January 1, 1966, freight shipments from the CB&Q Railroad in cars and over-the-road truck lines were

As a result of the foregoing change in the manner of receiving LCL freight at the Fort Madison Warehouse, it was necessary, after January 1, 1966, that all such freight received from the CBQ be physically removed from the Burlington Truck Lines trailer, sorted as to destination and ultimately reloaded into Carrier's rail cars for movement to destination.

Since this change in handling LCL freight by the CBQ effective January 1, 1966 resulted in a significant increase in the physical handling necessary to give this material, it became readily evident that the condition of the freight platform and docks, as well as the inadequate mechanical facilities, precluded the safe and efficient handling of this volume at the Fort Madison Warehouse. Consequently, it was decided that effective April 11, 1966 shipments of company material from the CBQ only would be received at the Shopton Storehouse. In other words, under the provisions of Article III, Section 1, of the February 7, 1965 Agreement, the work necessary in handling LCL company material was transferred from Fort Madison to Shopton and the Burlington Truck Lines thereafter delivered this merchandise directly to the Shopton Storehouse. All revenue shipments from the CBQ, as well as all LCL shipments from other carriers and sources, were and are handled at the Fort Madison Warehouse.

The change in the manner of handling LCL company freight received from the CBQ as outlined above resulted in claim being presented to Carrier's Division Superintendent by the Division Chairman. That claim and the subsequent exchange of correspondence considered pertinent in the appeal of the claim to succeeding officers of appeal, including the Carrier's Assistant to Vice President and highest officer of appeal, Mr. O. M. Ramsey, is submitted as Carrier's Exhibits A through R. Subsequent to Mr. Ramsey's declination of the instant claim on May 31, 1967, the case was discussed on the property at Chicago, Illinois. Any lapse in time between declinations and appeals in excess of that prescribed by the time limit rule has been by mutual agreement of the parties.

(Exhibits not reproduced.)

OPINION OF BOARD: The claim in this case is that the Carrier violated certain Rules under the November 1, 1963 Agreement between the Carrier and the Organization when the Carrier, on April 11, 1966, transferred certain work performed prior to that date by employes on the Illinois Division Station Department Seniority District to employes of the Store Department Seniority District.

The Carrier asserted that its action was appropriate under the Mediation Agreement, Case No. A-7128 dated February 7, 1965 (hereinafter called the "February 7 Agreement") and that under Article III, Section 1 of the February 7 Agreement the transfer of the work from one seniority district to another did not require an "implementing agreement" between the Carrier and the Organization. To this assertion, the Organization responded that the parties had agreed upon a compromise interpretation of Article III, Section 1 of the February 7 Agreement and that under that interpretation an "implementing agreement" between the parties was required.

The Carrier urges dismissal of this claim on the ground that the parties have agreed upon a procedure in the February 7 Agreement for the determination of disputes involving the interpretation or application of the February 7 Agreement. Since it is apparent to the Board that the determination of this dispute is dependent upon the interpretation or application of the February 7

Agreement, as cited in a number of prior awards involving the February 7 Agreement, we believe that procedures established and accepted by the parties themselves for resolving disputes under that Agreement should be respected. (See Award Nos. 14979, 15696, 16552, 16869, and 16924.)

Accordingly, the claim will be dismissed without prejudice.

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.

AWARD

Claim dismissed without prejudice.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 26th day of March 1969.

Keenan Printing Co., Chicago, Ill. Printed in U.S.A.