

Award No. 18049
Docket No. CL-18402

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Francis X. Quinn, Referee

PARTIES TO DISPUTE:

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

UNION PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6663) that:

1. The Carrier violated the Clerks' Agreement when on September 12, 1968 it assigned and/or permitted employes not coming within the scope of the agreement, to handle hand baggage at the Salt Lake City Passenger Station.
2. Carrier shall now compensate Red Caps J. R. Green, Jr. and J. M. Ellis for a call at the time and one-half rate for September 12, 1968.

EMPLOYES' STATEMENT OF FACTS: On August 22, 1968 the Carrier abolished two Red Cap positions. On September 12, 1968 there were no Red Caps available for the handling of hand baggage that had to be handled for patrons at the Salt Lake City Passenger Station. Traffic Department Passenger Agents, who hold no seniority rights under the agreement, were used for performance of the work.

Claim was duly filed by Vice General Chairman with Superintendent on October 2, 1968. (Employes' Exhibit "A")

Claim was denied by Superintendent on November 8, 1968. (Employes' Exhibit "B")

Claim was appealed to Senior Assistant to Vice President by General Chairman on December 9, 1968. (Employes' Exhibit "C")

Claim was denied by the Senior Assistant to Vice President on December 16, 1968. (Employes' Exhibit "D")

General Chairman's letter of January 10, 1969 to Senior Assistant to Vice President requested conference date be set for discussion of the case. (Employes' Exhibit "E")

Carrier's Exhibit H — General Chairman Hallberg's letter of January 10, 1969, advising Assistant to Vice President Wood that his decision was unacceptable and requesting a conference to discuss the claim.

Carrier's Exhibit I — Assistant to Vice President Wood's letter to General Chairman Hallberg dated February 6, 1969, confirming conference discussion and confirming prior denial of the claim by letter dated December 16, 1968.

(Exhibits not reproduced.)

OPINION OF BOARD: The questions at issue in this claim are:

1. Did the Carrier violate the rights of the employes of former Roster 116, and in particular, the rights of Red Caps J. R. Green, Jr. and J. M. Ellis by requiring and allowing employes not holding seniority on Roster 116 (home roster of claimants) or on Roster 81-1 or 81-2 (consolidated roster) to handle baggage.
2. Did the Carrier violate the then effective Agreement between the Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employes and the Union Pacific Railroad Company, by requiring and allowing employes not covered by the Agreement to perform work of handling baggage on September 12, 1968.
3. Shall Carrier now be required to compensate Red Caps J. R. Green, Jr. and J. M. Ellis in the amount of a call for date of September 12, 1968 at time and one-half rate as provided by the Agreement.

"Section (c) — Employes holding seniority on Seniority District No. 116 on the date immediately preceding the effective date of this agreement, who are assigned to Seniority District No. 81-2 on the effective date of this agreement, will be shown on the seniority roster of Seniority District No. 81-2 in seniority order with the same seniority date as shown on the seniority roster of Seniority District No. 116 on the date immediately preceding the effective date of this agreement. The rights of such employes to station attendant positions which are in existence on the date immediately preceding the effective date of this agreement shall remain unchanged on and after the effective date of this agreement, and such employes shall continue to have prior rights to such positions over employes holding seniority on Seniority District No. 81-2 on the date immediately preceding the effective date of this agreement."

After careful review of the record we must answer the above questions at issue in the affirmative. The record establishes probative evidence and competent proof that the employes of the Traffic Department did handle the baggage, placed the bags on a Red Cap cart and thereafter delivered the baggage to a chartered bus and were paid for the time so spent. It is well established that work once placed under the coverage of a valid and effective agreement may not be arbitrarily or unilaterally removed therefrom.

The defenses of the Carrier being unsupported by facts of record or without merit in law, we find the Carrier violated the Agreement as alleged in the claim.

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 violated.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 24th day of July 1970.