

Award No. 19070
Docket No. CL-15686

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John H. Dorsey, Referee

PARTIES TO DISPUTE:

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

**CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5762) that:

1. Carrier violated, and continues to violate, the Clerks' Rules Agreement at Aberdeen, S. D. when on April 30, 1964 and May 1, 1964, respectively it abolished Relief Clerk Position No. 6507 and Ticket Clerk Position No. 6784 and unilaterally assigned the work normally attached thereto to an employee outside the scope and application of that Agreement.

2. Carrier shall return the work of Positions No. 6507 and 6784 as it existed prior to April 30, 1964 and May 1, 1964 respectively, to the Clerks' Agreement and the employees covered thereby.

3. Carrier shall now be required to compensate Employees F. Holty, R. L. Lief, W. R. Gluyas and W. C. Gunther by making them whole for all wage losses they sustained as a result of the abolishment of Positions No. 6507 and No. 6784 retroactive to April 30, 1964 and for all subsequent days that this violation continues.

EMPLOYEES' STATEMENT OF FACTS: Prior to April 1, 1964 Carrier maintained Ticket Clerk Position No. 6784 at Aberdeen, S. Dakota. Position No. 6784 was a 7-day position and was assigned from 7 P. M. to 4 A. M. daily. The Saturday and Sunday rest days were a part of Relief Position No. 6507. Employee F. Holty was the regular occupant of Ticket Clerk Position No. 6784 and Employee W. R. Gluyas was the regular occupant of Relief Position No. 6507.

In addition to the above positions, the Carrier maintained a daytime position which the employees understand is covered by the scope of the Telegraphers' Agreement. The occupant of that position, L. E. Olson, has a title classification of Passenger and Ticket Agent. Evidence as to the correctness of this title classification is found in the following which is quoted from the Carrier's Passenger Train Schedules ordinarily referred to as a "Time Table."

"* * * * *

Letter written by Mr. Amour to Mr. Gilligan
under date of November 24, 1964.....Carrier's Exhibit "B"

(Exhibits not reproduced.)

OPINION OF BOARD: The record shows that the claims on behalf of Claimants Leif and Gluyas were not presented to the proper official of Carrier at any time during handling on the property; therefore, those claims must be dismissed. Awards 18256 and 18553.

This case involves the same parties and issues as in Awards 14682 and 15014. The following language from those awards is equally applicable to the instant dispute:

"The record does not reveal the particular work or the amount of it allegedly wrongfully taken from clerks. Clerks' Submission consist only of statements of ultimate facts not proven by substantial evidence of probative value. The burden of proof is Clerks. It failed to satisfy the burden. We, therefore, must deny the Claim."

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 not violated.

AWARD

Claimed denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 10th day of March 1972.