

Award No. 19126
Docket No. CL-17120

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Robert M. O'Brien, Referee

PARTIES TO DISPUTE:

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

SOUTHERN PACIFIC COMPANY (Pacific Lines)

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6253) that:

(a) The Southern Pacific Company violated the Clerks' Agreement at Tillamook, Oregon, when it nominally abolished Freight Clerk positions Nos. 4 and 6 and transferred the duties thereof to employees working under the Telegraphers' Agreement; and,

(b) The Southern Pacific Company shall now allow Mr. J. F. Crivella and/or his successor or successors in interest, namely, any other employe or employees who may stand in the same status as claimant and who may be adversely affected, one day's pay at the pro rata rate of Position 6 for July 18, 1961, and each subsequent date that clerical work is performed by persons outside the scope of the Clerks' Agreement, and until the claimant is restored to Position 6.

(c) The Southern Pacific Company shall now allow Mr. J. P. West and/or his successor or successors in interest, namely, any other employe or employees who may stand in the same status as claimant and who may be adversely affected, one day's pay at the pro rata rate of Position 4 for July 17, 1961, and each subsequent date that clerical work is performed by persons outside the scope of the Clerks' Agreement, and until the claimant is restored to Position 4.

EMPLOYEES' STATEMENT OF FACTS: There is in evidence an Agreement bearing effective date October 1, 1940, reprinted May 2, 1955, including subsequent revisions, (hereinafter referred to as the Agreement) between the Southern Pacific Company (Pacific Lines) (hereinafter referred to as the Carrier) and its employees represented by the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees (hereinafter referred to as the Employees) which Agreement is on file with this Board and by reference thereto is hereby made a part of this dispute.

Immediately prior to events which gave rise to this claim, only two clerical positions remained at Tillamook, Oregon:

Personnel and by letter dated May 23, 1963 (Carrier's Exhibit "E"), the latter denied the claim.

(Exhibits not reproduced.)

OPINION OF BOARD: To handle changes in the work requirements at Tillamook, Oregon, Carrier abolished the two clerical positions at that station. Following abolishment of the two clerical positions, Carrier established Position No. 8, Telegrapher-Clerk, hours 6:30 A.M. to 2:30 P.M. and at the same time, Position No. 1, Agent-Telegrapher changed its assigned hours to be 9:00 A.M. to 5:00 P.M. This allowed the two Telegrapher positions to perform all telegraph service required at Tillamook, and the two telegrapher employees filled out their regularly assigned hours performing duties formerly performed by the abolished clerical positions.

The Organization alleges that Carrier violated the Scope Rule of the applicable Agreement when it abolished the two clerical positions and transferred their work to employees not covered by the Clerks' Agreement. Such work, they assert, has historically and traditionally been performed by employees covered by said Agreement and cannot be transferred to another class and craft.

Since the Scope Rule in question is general in nature, to prevail, the Organization must allege and prove that the work in question has been historically, and traditionally performed exclusively by employees covered by the Clerks' Agreement. This it has failed to establish.

Nor was the Organization able to refute the fact raised by Carrier, that due to changes in work requirements at Tillamook, it became necessary to establish a second telegraph position. Thus, it must be taken as true, and the telegraph position is not open to attack by the Organization.

For the aforementioned reasons, the claim will be denied.

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

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 12th day of April 1972.

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