

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20341  
Docket Number CL-20461

Irwin M. Lieberman, Referee

PARTIES TO DISPUTE: (Central Vermont Railway, Inc.  
(Brotherhood of Railway, Airline and Steamship Clerks  
( Freight Handlers, Express and Station **Employees**

STATEMENT OF CLAIM: Since Article VIII of the National Agreement dated February 25, 1971, accords the Carrier the exclusive option either to consolidate **clerk-telegrapher work**, or not to **consolidate**, and contains no prohibition against it, may the Carrier withdraw a notice of its desire to consolidate such work, where the Carrier **advises** the Organization of that withdrawal prior to **any** agreement being effected on such consolidation?

OPINION OF BOARD: The issue in this dispute is identical with that dealt with by this Board in Award 20161. The Claim, presented by the Carrier, presents the question of whether the Carrier **may** withdraw its notice and proposal that the **BRAC-TCU** Agreements be combined in accordance with the National Agreement dated February 25, 1971.

On February 16, 1972, Carrier served notice of Its desire to exercise the option provided by Section 2(a) of Article VIII of the Agreement dated February 25, 1971 end to combine the **rosters of the Clerks and Telegraphers**. After more than a year of **correspondence** and negotiating meetings Carrier, on May 9, 1973 advised the Organization's representatives, at a conference, that it did not **think** it could afford the cost of a merged agreement. On June 19, 1973 Carrier **formally** withdrew its notice dated February 16, 1972 thus precipitating the dispute before us.

The sole **discernible difference** in **circumstances** in this dispute is that Carrier, with considerable candor, indicated it had second thoughts about the merged **agreement** because of the potential cost. Thus, **in** this instance we are furnished with a **motive** for the **change** initiated by Carrier, which was only speculative in the prior case. However, the basic question **propounded** herein differs not one whit **from** the prior dispute; is the Carrier precluded from withdrawing its option? We find no **reason** to change our thinking from that expressed earlier, and on the principle of stare decisis, we must conclude that Carrier could not be permitted to change its mind **after** exercising its option.

**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 **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 question **in** dispute is resolved in the negative,

A W A R D

The Carrier cannot withdraw its notice of its desire to **consolidate** work under Article MI of the **February 25, 1971** National Agreement.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of **Third Division**

ATTEST:

*C. W. Paulsen*  
Executive Secretary

Dated at Chicago, Illinois, this 31st day of July, 1974.