

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23062
Docket Number a-23017

George S. Roukis, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees
(
(St. Louis-San Francisco Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-8848) that:

1. Carrier violated the agreement between the parties when it permitted or required an employee not covered by the scope of the clerical agreement to perform work which, by history, custom, practice and tradition, has been performed by storehelpers.

2. Account Carrier's violation of Rules 1, 44, 48 and other related rules of the clerical agreement, Carrier shall be required to compensate the senior qualified, available, storehelper in the General Store Room in Springfield, Missouri, for three hours' pay at the rate of the Storehelper's position for Tuesday, July 18, 1978.

OPINION OF BOARD: Before proceeding to a discussion of the primary issue before this Board, namely, whether the purported Claimant could be readily identified, we will dispose of the procedural arguments raised by Carrier. Careful review of the on situs correspondence does not reveal that the employees' exhibits B and C were specifically discussed or handled on the property, as per the explicit requirements of circular 1. Thus, they are not properly before this Division. Similarly, we do not find that Carrier failed to deny in timely fashion the Organization's claim since this line of argument was abandoned in the Organization's May 14, 1979 submission.

We recognize, of course, the diversity of Board decisions vis the question, "what constitutes a readily identifiable Claimant", but we believe the Organization's averments and supportive citations possesses the most persuasive merit. In Third Division Award 11732, which Carrier cites as the controlling Award in setting forth the standards by which a Claimant can be readily ascertained and identified, this Board held in pertinent part that:

"A mere assertion by a petitioner that a Carrier gives the names of the employees involved from its records has no probative value. When a Carrier avers that the **claim as** present&does not satisfy the test, then a petitioner **has** the burden to prove, by evidence in the record, that identity of the employee(s) involved is now known to Carrier; **conversly** the defense asserted by **Carrier** is **sham** and frivolous.'

But the fact specifics were patently distinguishable. The claim cited "claim for unnamed employees." It was vague, without specification and the Board's determination was manifestly correct under the **circumstances**. In the instant dispute, the Organization **identified** the senior qualified, available, storehelper in the General Store Room in Springfield, Missouri. In essence, it **provided a definable** focus. In **Third** Division Award **14672**, which we find more conceptually relevant with this claim, we stated in pertinent part that:

"We have frequently heretofore held that the **name** of the employee on behalf of **whom** a claim is presented, is not essential to the proper presentation of a claim: as long as the **claim** described the **Claimants** so that **they** can be **readily** identified, the claim is made on behalf of the **particular** employees as 'Each Group **14** employee assigned to the Equipment Repair Shop **on January 24 and 25, 1961.**' **Carrier** should have **had** no difficulty in **identifying them by** an examination of its records."

We find **this** holding more closely approximates the **Organization's** position, especially where as in **Third** Division Award 10379, we also held by definition Carrier's obligation to maintain seniority records. **Notwithstanding**, the admitted difficulties in adjudicating **this** genre of disputes, the record sufficiently establishes that the Organization met the "particularity" as delineated in **Third** Division Award **11732**. We will sustain 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**;

Award Number 23062
Docket Number a-23017

Page 3

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 violated.

A W A R D

claim sustained.

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

ATTEST: *A. W. Paulson*
Executive Secretary

Dated at Chicago, Illinois, this 14th day of **November** 1980.