

CH

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24011
Docket Number CL-23943

Ida Klaus, Referee

(Brotherhood of Railway, **Airline** and Steamship Clerks
(Freight Handlers, **Express** and Station **Employees**
PARTIES TO DISPUTE: (
(Illinois Central Gulf **Railroad**

STATEMENT OF CLAM: **Claim** of the System **Committee** of the Brotherhood
(GL-9363) that:

1. Company violated the Agreement between the parties, on
October 19, 19'79 when, **Company** abolished Position No. **177**, TP Clerk,
Meridian, Miss., occupied by Clerk **G. R. Ethridge**.

2. **Company** shall now compensate Clerk **G. R. Ethridge** at the rate
of Position No. **177**, \$70.42 per day for each day, **Monday** through Friday,
thereafter, plus all subsequent rate increases, in addition to any compensation
he has received, **beginning** October 22, **1979** and continuous, account **violation**
of Rule 16, among others of the current Agreement.

OPINION OF BOARD: The Claimant challenges the propriety of the abolishment
on October 19, **1979**, of Teleprocessing Clerk Position **No. 177**
(TP Clerk) on the **first** shift of the Meridian, Mississippi, Agency - Yard Office
and the **removal** of the incumbent. Three other positions deemed relevant to this
claim are another TP Clerk **and** two lower-rated **positions** of **IBM** Clerk and **IBM**
Utility Clerk.

TP Clerk Position No. 177 was established in 1972 to **provide** a second
TP Clerk for the first shift to **meet** the increased teleprocessing needs of the
Meridian Yard office resulting **from** a merger of the Illinois Central Railroad
with the Gulf, Mobile and Ohio Railroad. Under the merged **organization**, the
additional TP Clerk was assigned to the first shift at Meridian to handle the
teleprocessing work of placements and releases for two districts served by
the former Gulf, Mobile **and** Ohio. The other TP Clerk remained on the first
shift to perform the rest of the normal teleprocessing work. Meridian, thus
became the only location on the merged railroad with two TP Clerks on the **same**
shift in the same office. Two lower-rated clerks (**IBM** and **IBM** Utility) were
assigned to work with **and under** the two TP Clerks. Their primary duties were
to assist TP Clerks in cutting **IBM** cards and checking yards **and** industries.

Over the years, the teleprocessing work of the position **decreased**,
and the scope of its duties **narrowed**. All the teleprocessing work for one of
the two districts served by the position, and **most** of that for the other district,
was **transferred** to other locations. With **the** removal of that work, the incumbent

was assigned some of the teleprocessing tasks of the other TP clerk position on the shift as well as **some** interchange work at Meridian. He was also **assigned duties that are performed by** all clerks. Then, several months before the abolishment of the position, the interchange work was transferred to another location.

On October 19, 1979, TP Clerk Position No. 177 was abolished and the incumbent was removed. The remaining teleprocessing work performed at that time by the incumbent was assigned to two other positions on the shift. The release and placement work for Meridian was turned over to the other TP Clerk Position. The processing of certain reciprocal switching reports was placed on the higher rated Rate Clerk position. Other **miscellaneous** duties of the incumbent were the **same** as those performed by all **clerks** at Meridian and required no position reassignment.

The issue in contention centers on Rule 16 of the parties' Agreement. It reads as follows:

"Rule 16. REDUCTION IN POSITIONS

(a) Established positions shall not be discontinued and new ones created **under** a different title covering relatively the same class of work for the purpose of reducing the rate of pay or evading the application of these rules

(b) Subject to paragraph (c) of this rule, in effecting a general reduction in clerical forces in an office or department, **if two** or more clerks are performing the **same** or similar work, the **lowest** rated **position** in such group (or if all are rated the same, the job held by the junior employee) shall be the first cut off. If no such groups or positions exist, the lowest rated clerical position in the office or department affected will be cut off provided the efficiency of that **office** will not be **impaired** by so doing (underscoring added).

(c) Any position may be abolished **when** the major portion of its work or requirements is no longer needed."

The **Organization** contends that the Carrier improperly failed to **observe** the force-reduction requirements of paragraph (b) when it abolished the TP Clerk position. Since, in its view, the TP Clerk and the two **IBM** Clerks were performing "the same or **similar** work", the Carrier should have abolished the lower-rated **position** held by the **junior** employee.

The **Organization** regards paragraph (b) as applicable, for two reasons: First, the introductory **"subject to"** phrase of paragraph (b) subjects the **Carrier's** paragraph (c) abolishment authority to the requirements of **paragraph (b)**. **Second, paragraph (c)** was in any **event** Inoperative because the controlling condition it prescribes was not present here, as is shown by the **reassignment** to others of the work of the position.

The Carrier responds that it acted in proper accord with its **inherent managerial** authority, recognized in paragraph (c) to abolish unneeded positions in the interest of efficiency and economy. It asserts the position was no longer needed because the **major** portion of the work for which it was established had diminished to a **point** where it could be absorbed by one TP Clerk on the shift, **Iii considers** that **only** a lesser portion of the work remained in the **position** and that it was properly transferred. The Carrier **regards** its action as governed entirely by the provisions of paragraph (c), without any control or **limitation by paragraph (b)**. It would in a4 event **find** (b) inapplicable to this **particular** situation because it does not **regard** the work of the Teleprocessing Clerk **and** that of the **two** lower-rated positions as "the Same or similar".

In the **Board's** view, neither basic contention is wholly acceptable. While the two **paragraphs** are **separate** and distinct, they may reasonably be Said to **operate** in harmony in appropriate **circumstances**.

We cannot fairly interpret the "subject to" phrase of **(b)** as a limitation on the operation of (c) where the conditions prescribed by (c) have been shown to exist. Such an interpretation overlooks the difference in the basic purpose of the two separate paragraphs.

Paragraph (b) concerns the order in which a general reduction in force will affect a group of **incumbents**, but not the essential functions of their positions. Its clear purpose is to provide a fair **and** rational **force-reduction** procedure. Paragraph **(c)** addresses the need for the essential nature of the functions of a particular position in the operation of the enterprise. Its focus is on the **position itself**, not on those who occupy it. Its plain **purpose** is to assure that **management's** recognized authority to eliminate positions **will** be fairly and reasonably exercised. As the **paragraph** makes no reference to the person performing the duties of the position, it may reasonably be said to imply that **incumbency** falls with the position.

Had the **parties** Intended to make the abolishment authority of **(c)** subject to the procedures of (b), it would have been more logical and sensible of them to say so bywords of limitation in (c) linking it with **(b)**. **It is** in fact reasonable to ask whether (c) would be needed at all if (b) were intended to be **controlling in** the case of true position **abolishment**. The placement **in** (b) of the "subject to" phrase can thus be Said to reflect an intention to confirm the separate and independent role of **(c)**.

At the **same** time, we recognize that a further logical function of the phrase is to make (b) controlling where the Carrier has failed to make the necessary showing under (c) to **justify** the abolishment of the position.

The narrow issue accordingly presented in this claim is whether the Carrier has met the burden of proof placed **upon** it by the requirements of **paragraph (c)**. We find that it has.

There is substantial evidence of 8 probative nature to support ~~the Carrier's position that the major portion of~~ the work and requirements of TP Clerk Position No. 177, as established, was no longer needed in its Meridian operations. We **cannot** find from the evidence that a sufficient amount of work remained in the position at the time it was abolished to warrant continuation of the position.

On the record before the Board, we conclude that the abolishment constituted a proper exercise of the Carrier's discretion under paragraph (c) of Rule 16. We may not overturn that **judgment**. Accordingly, the Board concludes that paragraph (b) was not applicable.

The claim will be denied.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the per-ties 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

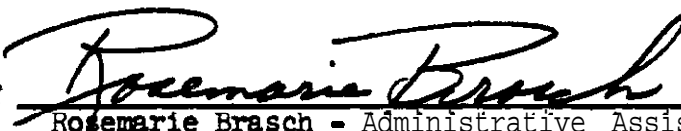
That the Agreement was not **violated**.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: Acting Executive Secretary
National Railroad **Adjustment** Board

BY 
Rosemarie Brasch - Administrative Assistant



Dated at Chicago, Illinois, 20th day of October 1982.