

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25125
Docket Number CL-24997

Edward L. Suntrup, Referee

(Brotherhood of Railway, Airline and Steamship Clerks, Freight
(Handlers, Express and Station **Employees**
PARTIES TO DISPUTE: (
(The Atchison, Topeka and Santa Fe Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (**GL-9736**)
that:

(a) Carrier violated the Agreement at McPherson, Kansas, when it requires or **permits** an official (Manager-Regional Freight Office) to perform duties which were assigned to and an integral part of the duties of Agent T. O. Clerk Position No. 4006 at McPherson, Kansas, prior to that position being abolished, and

(b) The duties of Agent T. O. Clerk Position 4006, which are now being performed by an **employee** not covered by the Agreement (Manager-Regional Freight **Office**) shall be restored to the Agreement, and

(c) F. E. Stewart shall now **be** compensated eight (8) hours pro rata at the rate of former Position No. 4006 (plus subsequent wage increases) for each **workday** of that position, commencing Monday, January 18, 1982, and continuing until the **work** that was removed **from** the scope of the **Agreement** is restored **thereto** and the violation ceased.

OPINION OF BOARD: By letter dated March 15, 1982 the Organization filed a pay claim on behalf of Claimant F. E. Stewart. The claim alleged that when the Carrier abolished Agent T. O. Position No. 4006 **at McPherson**, Kansas on January 18, 1982, a position covered by the current Agreement between the Organization and the Carrier, the Carrier then assigned duties which were an integral part of position No. 4006 to a newly created official position at that facility in lieu of assigning this work to other positions covered by the Agreement. The alleged duties in question consisted in "supervising and **directing** the Carrier's agency **business** and functions", as **well** as "supervising and directing the other **employees**" at McPherson, Kansas.

The Carrier's denial of the claim on property was based on the following reasons. Agent T. O. Clerk Position 4006 at McPherson had been abolished because McPherson, Great Bend and Abilene, Kansas were designated by the Carrier, in a technological upgrading move, as Regional Freight Offices. Since such was the case the equipment at these three points was upgraded and circuits for computer operations were installed at all of them in order to implement OX waybilling at these stations for approximately nineteen (19) surrounding stations. Because of the large investment of equipment and money at the stations in question, including McPherson, the Carrier exercised its managerial prerogative and located a supervisory employee at each. It is the further contention of the Carrier that all scheduled clerical work formerly performed by the Agent was reassigned **and** "given to newly established scheduled clerical positions of Regional Freight Office - Train Order Clerk, which were established the same date that the supervisory agent positions were established. Thus, there has been no loss in clerical positions or work at these respective agencies', including McPherson.

As moving party it is **encumbent** upon the Organization to make substantial showing that the Carrier was in violation of current Agreement provisions when it implemented the managerial decisions described in the foregoing. A search of the record fails to show such violation. No clerical work formerly performed by the Claimant was lost, or at least there is no record of such in the evidence before the Board, **and** the Claimant himself suffered no monetary loss since he was paid a monthly make-up allowance under the provisions of the February 7, 1965 Mediation Agreement as emended between the parties. What did happen is that the Carrier made technological and operational changes at its McPherson facility which necessitated the abolishment of Agent T.O. Position No. 4006 and the concurrent creation of a Managerial Position and Train Order Clerk positions.

The Organization herein relies on the Scope Rule of the Agreement to sustain the position of the Claimant in the instant dispute. As this Board has already ruled, however, in a dispute between the same Organization and the same Carrier which is substantially identical to the instant one, "accepted doctrine in this industry indicates that when an Agreement applied to Carrier's operations on a system-wide basis, the particular practice upon which claim is made must be system-wide" (Third Division 25003). A search of the record fails to provide **substantial** evidence to support such practice.

Neither the facts in this case nor the Agreement provide support for the Claimant's position that the work in question has ever **been reserved** exclusively to the Organization on a system-wide basis (Public Law Board 3296; Public Law Board 3696).

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 Agreement was not violated

A W A R D

Claim denied.

Attest:


Nancy J. Dever - Executive Secretary

NATION& RAILROAD ADJUSTMENT BOARD
By Order of Third Division



Dated at Chicago, Illinois this 9th day of November 1984.