

NATIONAL RAILROAD ADJUSTMENT BOARD
Third Division

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS, FREIGHT
HANDLERS, EXPRESS AND STATION EMPLOYES**
**MAINE CENTRAL RAILROAD AND PORTLAND TERMINAL
COMPANIES**

DISPUTE.—"That employes in Superintendent's Office, Portland Division, Maine Central Railroad Company and Portland Terminal Company, should be consolidated as provided in Rule 34 of Agreement between the above-mentioned parties, effective July 7, 1927, reading—

"**RULE 34. Consolidations.**—When, for any reason, two or more offices or departments are consolidated or divided, employes affected shall have prior rights to corresponding positions in the consolidated or divided office or department. After such rights have been exercised, seniority rights shall govern, subject to the provisions of Rule 4."

and such employes be included in a joint seniority roster with the Portland Terminal Company."

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

The carrier and the employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

The parties to said dispute were given due notice of hearing thereon.

The following statement of facts is jointly certified by the parties, and the Third Division so finds:

"Effective June 1, 1933, jurisdiction of Superintendent, Portland Division, Maine Central Railroad Company, was extended to include the Portland Terminal Company, except the Wharves and Waterfront Property Operation.

"Effective June 1, 1933, former Superintendent Portland Terminal Company was made Manager of Marine Terminals.

"On the date of these two changes, there were two clerical positions in office of Superintendent Portland Terminal Company. The individual on one of these positions, designated as 'Clerk B' went with the Manager of Marine Terminals, Portland Terminal Company, in a clerical capacity, with seniority intact. The other employe (Chief Clerk) designated as 'Clerk A' transferred to Joint Superintendent's office, with seniority intact in the Portland Terminal Company, and with no change of duties or rate of pay.

"On October 9, 1933, position of Chief Clerk to Superintendent, Portland Terminal Company, was abolished, and a new position created in the Joint Superintendent's office to care for detail Portland Terminal work, which position was bid off by former Chief Clerk, 'Clerk A', who continued by agreement to hold seniority in the Portland Terminal Company clerical field.

"On August 15, 1934, the office of Manager of Marine Terminals, Portland Terminal Company, was abolished, and a Superintendent appointed with jurisdiction over Portland Division, Maine Central Railroad Company; Portland Terminal Company, including Wharves and other Waterfront Property Operations.

"The clerical position held by 'Clerk B' that had gone to the office of Manager of Marine Terminals, then went to the office of Joint Superintendent, theoretically retaining seniority in the Portland Terminal field.

"'Clerk A' who had bid in new position created in office of Joint Superintendent to care for detail Portland Terminal work, October 9, 1933, died September 18, 1934, after which this position was abolished, leaving one clerical position held by 'Clerk B' with seniority rights in the Portland Terminal Company.

"At the time Portland Terminal 'Clerk A' died, a portion of the work of his position was transferred to a new position created at Rigby Yard Office.

"This is the office set-up to date.

"For a period of years, the Portland Terminal Company Clerks have had a separate seniority roster with no rights to positions in Office of Superintendent, Portland Division, Maine Central Railroad Company, or vice versa.

"Also, from the time of the Joint Superintendency, separate seniority rosters have been maintained in the Joint Superintendent's Office—one covering Portland Division, Maine Central Railroad Company, and the other Portland Terminal Company, as per attached Exhibits 'A' and 'B.'

"At present, all of the Portland Terminal clerical work coming within the scope of the Superintendent's office, is performed in the Office of the Joint Superintendent.

"This matter has been under negotiation between the parties in dispute since April 11, 1934."

An agreement bearing effective date of July 7, 1927, exists between the parties, and the complainant bases claim on Rule 34, thereof, above quoted.

Prior to the change of jurisdiction and consolidation of work, as related in the joint statement of facts, seniority districts had been established by mutual understanding and agreement between the parties. Petitioner now seeks to establish a joint roster under the provisions of rule 34, but seniority districts once established by understanding and/or agreement can only be changed by agreement between the parties.

AWARD

Claim denied.

By Order of Third Division:

NATIONAL RAILROAD ADJUSTMENT BOARD.

Attest:

H. A. JOHNSON,
Secretary.

Dated at Chicago, Illinois, this 30th day of September 1935.