

NATIONAL RAILROAD ADJUSTMENT BOARD  
Third Division

**PARTIES TO DISPUTE:**

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS, FREIGHT  
HANDLERS, EXPRESS AND STATION EMPLOYES  
MISSOURI PACIFIC RAILROAD COMPANY**

**DISPUTE.**—"Violation of the provisions of Rule 76 of the Clerks' Agreement effective August 1st, 1926, account abolishing position of Head Janitor, Union Station, Little Rock, Ark., and creating in lieu thereof position of Custodian, appointive and on a monthly rate. Claim for a wage loss sustained by C. L. Stack and for restoration of Head Janitor's position and that same be bulletined in accordance with the rules of the Agreement."

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

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.

On account of closing a number of offices in the Little Rock Union Station Building and thus reducing the space requiring janitor service, the positions of Building Custodian, occupied by W. R. Meeks, rate \$210.00 per month, and Head Janitor (in charge of night cleaning force), occupied by C. L. Stack, rate \$3.16 per day, were abolished, April 10, 1932, and the supervision of the janitor force (day and night) was placed under jurisdiction of Station Master, whose tour of duty was during the day period.

Superintendent's bulletin No. 64, dated January 28th, 1933, called for restoration of position of Head Janitor, \$3.16 per day, hours of service, 8:00 p. m. to 5:00 a. m., lunch period, 12:00 midnight to 1:00 a. m. This bulletin was cancelled before an assignment was made.

The position of Building Custodian, rate \$125.00 per month, in charge of night janitor force, was created February 1, 1933, and John Parker, previously employed as Station Master at Texarkana, Texas, was assigned thereto.

An agreement between the parties bearing effective date of August 1, 1926, is in evidence, and the petitioner cites and relies upon Rule 76 thereof:

"**RULE 76.** 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."

The Carrier represents that "Building Custodian" is a supervisory position and does not come within the Scope Rule of the Agreement, which reads as follows:

"**RULE 1. Scope—Employees affected.**—These rules shall govern the hours of service and working conditions of the following employees, subject to the exceptions noted below:

"(1) Clerks.

"(2) Other office and station employees, such as office boys, messengers, chore boys, train announcers, gatemen, checkers, baggage and parcel room employees, train and engine crew callers, operators of office or station equipment devices, telephone switchboard operators, elevator operators, office, station, and warehouse watchmen, and janitors.

"(3) Laborers employed in and around station, storehouses, and warehouses."

The Third Division finds that the position described in the record as that of "Building Custodian" is in fact that of "Head Janitor" and subject to the terms of the Agreement.

The evidence is not sufficient to determine whether C. L. Stack made application for or held seniority right to position of Head Janitor, bulletined January 28, or to position classified as Building Custodian, created February 1, 1933, or that he sustained a wage loss.

#### AWARD

The position of Head Janitor (now classified as Building Custodian) shall be bulletined and assignment made thereto in accordance with the rules of the Agreement.

Claim of C. L. Stack for wage loss, if any, is remanded for negotiation and adjustment by and between the parties, in accordance with the findings of fact herein.

By Order of Third Division:

NATIONAL RAILROAD ADJUSTMENT BOARD.

Attest:

H. A. JOHNSON,  
*Secretary.*

Dated at Chicago, Illinois, this 2nd day of December 1935.