

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Frank M. Swacker, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES
SAVANNAH UNION STATION COMPANY**

STATEMENT OF CLAIM: "Claim of System Committee, the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employes that:

"1. The Savannah Union Station Company violated the agreement between the two parties in this dispute when on July 1, 1938, the position of clerk-stenographer to the stationmaster was abolished and the work from that position placed on the assistant stationmaster, whose position was not covered by the agreement.

"2. Claim that Mrs. J. P. Gray should be paid for all monetary loss from July 1, 1938, until this dispute is settled."

JOINT STATEMENT OF FACTS: The following statement of facts was jointly certified by the parties: "That the position of clerk-stenographer to the stationmaster, Savannah Union Station, Savannah, Ga., was abolished on July 1, 1938; that said position was covered by the agreement revised November 1, 1936, between the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employes, and the work from that position was turned over to the assistant stationmaster, who is performing that service, and whose position is not included within the scope of the agreement mentioned above. Mrs. Gray, under the agreement, holds her seniority rights for twenty-four (24) months and is subject to call back to service whenever needed or this position might be re-established."

POSITION OF EMPLOYES: "There is in existence an agreement bearing date of November 1, 1936, between Savannah Union Station Company and the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employes, Rule 1 of which reads in part as follows:

'Rule 1. These rules shall govern the hours of service and working conditions of the following employes subject to the exceptions noted below:

Group (1) Clerks—(a) Clerical workers,
(b) Machine operators.'

"The position held by Mrs. J. P. Gray for several years prior to July 1, 1938, was included in the above scope ruling. This position was abolished without conference with representative of the employes, and the work of the position placed on an assistant stationmaster, whose position is not included in the scope of the agreement between the two parties to the dispute.

"The agreement also contains Rule 81, which reads as follows:

'Rule 81. This agreement shall be effective November 1, 1936, and shall continue in effect until it is changed as provided herein or under the provisions of the Railway Labor Act as amended June 21, 1934.'

"As no agreement or conferences were held prior to the abolishment of Mrs. Gray's position, and the employes protested the abolishment of her position as early as June 10, 1938, and the turning over of her work to the assistant stationmaster, but regardless of the protest the position was abolished and the work assigned to the assistant stationmaster; therefore, the employes contend that the provisions of the agreement have been violated and that Mrs. Gray should be returned to her former position and paid for all monetary loss. It is asserted that all of the above information has been furnished to the carrier, and that conferences have been held, and the dispute has not been adjusted on the property. It is, therefore, referred to the Third Division, National Railroad Adjustment Board, for settlement."

POSITION OF CARRIER: "The Savannah Union Station Company is a passenger terminal, used by the Atlantic Coast Line, Seaboard Air Line, and Southern Railways, for the conduct of passenger business.

"It is understood, and this custom has prevailed for years, that clerical forces of the Union Station Company are governed by rules of the Atlantic Coast Line Railroad for such employes.

"Effective July 1, 1938, in order to reduce expenses of the terminal company, on account of decreased traffic and unsatisfactory business conditions, the position of clerk-stenographer was temporarily abandoned.

"In support of this the carrier cites Rule 2-(a) of the agreement, reading as follows:

'Rule 2-(a) Clerical workers—**Employes who regularly devote not less than four (4) hours per day** to the writing and calculating incident to keeping records and accounts, rendition of bills, reports and statements, handling of correspondence and similar work.'

"Affidavit of Stationmaster J. D. Moore is hereto attached, marked Exhibit 'A,' showing that the clerical work previously performed by clerk-stenographer, and now and since July 1, 1938, being done by the assistant stationmaster, does not amount to more than three hours and thirty minutes per day; therefore, it is considered that the steps taken are fully justified.

"As information to the Board the only clerical forces of the terminal company, outside the clerk-stenographer, are those in the ticket office, being one ticket agent and two ticket clerks.

"The position of assistant stationmaster hereinabove referred to is an excepted position under Rule 1 of the agreement.

"The carrier respectfully calls to the attention of the Board the last clause of its decision, or conclusion, in Award 196, Docket CL-174, dated February 6, 1936, having to do with the rule quoted above."

OPINION OF BOARD: The controlling facts in this dispute are not in controversy; they are jointly certified to by the parties.

It is shown that the position of clerk-stenographer and the work attaching thereto were within the scope of the current agreement when the position was abolished on July 1, 1938; that thereupon the work from that position was turned over and assigned to the assistant stationmaster, a position excepted from the scope of the agreement in evidence; that as a result thereof the former occupant of the position of clerk-stenographer is unassigned and unemployed, although retaining seniority rights to the work in question.

This Board has repeatedly held that positions or work once within collective agreements cannot be removed therefrom, arbitrarily, and the work assigned to those not within the purview of such agreements, or to employes occupying positions specifically "excepted" from the scope of these agreements by understanding or agreement between the parties. Compare Awards Nos. 385, 458, 631, 637, 736 and 751. The principle contained in those Awards is found to be controlling in the instant case, and it is hereby reaffirmed. The four-hour rule relied on by the Carrier has no application; it is simply a line of demarcation between two classes of employes both within the agreement and not a limitation on the scope of the agreement. The claim of the complainant party should, therefore, be sustained.

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

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;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein;

That the parties to said dispute waived right of appearance at hearing thereon; and

That the Carrier violated the current agreement as indicated by the Opinion.

AWARD

Claim for wage loss sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 18th day of November, 1938.