

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Bruce Blake, Referee

PARTIES TO DISPUTE:

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

**GULF COAST LINES, INTERNATIONAL-GREAT NORTHERN
RAILROAD COMPANY, SAN ANTONIO, UVALDE & GULF
RAILROAD COMPANY, SUGARLAND RAILWAY COMPANY,
ASHERTON AND GULF RAILWAY COMPANY**

(Guy A. Thompson, Trustee)

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that the position held by Mr. T. E. Dwyer in the City Ticket Office at Galveston, Texas is included in, and is a part of Seniority District Number 24."

EMPLOYES' STATEMENT OF FACTS: "Prior to April 1, 1939 the City Ticket Offices on this property were not covered by the agreement between the carrier and the Brotherhood. They were negotiated into the agreement effective April 1, 1939 and made a part of the station and yard office employees seniority districts. The same provisions were continued in the agreement that became effective November 1, 1940.

"Mr. Dwyer has, for nearly nine years, sold all tickets, performed all accounting and compiled all reports for the ticket office. Up until less than one year ago Mr. Dwyer was unable to make a bond as is required of all other persons on this property who handle tickets, cash or ticket accounts.

"During the years that Mr. Dwyer was not bonded that condition was concealed by having Mr. H. L. Durham, a Traffic Representative, bonded as the cashier or ticket clerk."

POSITION OF EMPLOYES: "The employees quote the following from our current rules agreement:

'Rule 5. Seniority Districts

'(a) The following seniority districts are hereby established and such seniority districts shall remain in effect until changed by mutual agreement between the Management and the General Chairman:

Office

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Seniority District

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"The seniority roster of stations to include all employees at stations, yards, etc., including city ticket offices and quotation clerks in traffic offices, and are designated as follows:

Clerks' Organization makes any reference to a City Ticket Office at Galveston. The Carrier operates one passenger train out of Galveston daily, the Sunshine Special, scheduled to depart at 10:30 A. M. Tickets for that train are sold in the General Agent's Office by Mr. T. E. Dwyer, Chief Clerk to the General Agent, in addition to his other duties as Chief Clerk. Mr. Dwyer has sold tickets as indicated above since April 6, 1932. He has been carried as an employe in the Traffic Department with seniority date January 7, 1918. His name appears on seniority roster of District No. 9."

POSITION OF CARRIER: "Since April 6, 1932, the Carrier has not maintained a City Ticket Office at Galveston. Tickets for train indicated in Carrier's statement of facts are and have been sold in the General Agent's Office at Galveston since April 6, 1932, by the General Agent's Chief Clerk, who is an employe in the General Agent's Office and under his supervision. The General Agent is a representative of both the Freight and Passenger Traffic Departments and the employes of his Office, with exception of Traffic Representative, are carried on seniority list of the Freight Traffic Department designated as District No. 9 in the current Agreement with the Clerk's Organization. Mr. Dwyer, as Chief Clerk to the General Agent, performs all of the duties generally recognized as those performed by Chief Clerks in other offices.

"Section (c), of Rule 6, Seniority Rosters, as contained in current Agreement with Clerks' Organization, reads as follows:

"The roster will be signed by employing officer and Local Chairman, Division Chairman, and General Chairman will be furnished with a copy of roster."

"Carrier is attaching, as its Exhibit No. 1, a copy of seniority roster District No. 9, Traffic (Frt.) dated January 21, 1941, signed by Mr. G. H. Hamilton, Freight Traffic Manager of the Carrier, and Mr. E. C. Griffith, Local Chairman of Clerks' Organization, as provided for in Section (c), Rule 6, quoted above. Mr. T. E. Dwyer's name is shown on that roster as No. 3 with date of January 7, 1918, which indicates that the Local Chairman of the Organization agreed that Mr. Dwyer should be included in Seniority District No. 9, which is in accord with the position of the Carrier.

"It is the contention of the Carrier that the selling of tickets by the Chief Clerk in the General Agent's Office at Galveston, which he has been doing since April 6, 1932, does not transfer him from Seniority District No. 9 to Seniority District No. 24 and that the Carrier has introduced such evidence to warrant your Honorable Board to make an award upholding its position in this case."

OPINION OF BOARD: As we view the record the controlling facts are not in dispute. Notwithstanding that there was no city passenger agent at Galveston when city ticket offices were first brought within the scope of the agreement, it is manifest that the parties contemplated that the clerical work appertaining to such an office should be assigned in accordance with the provisions of the agreement. This view is confirmed by the interchange of letters between the General Chairman of the Organization and the General Manager of the Carrier under dates of July 14, 1939 and November 7, 1939, respectively. The General Chairman wrote:

"During our agreement negotiations we had considerable discussion in regard to position of Cashier, City Ticket Office at Galveston.

We were advised by the Traffic Department that they were making a rearrangement of the force at Galveston with the result that no further consideration was given the handling of ticket business at Galveston and it was understood that we would handle this matter at a later date after the force had been rearranged and reclassified. (Emphasis added.)

We now find that a considerable volume of ticket business is being done, work being handled by the General Agent's force which is improper and I would like to discuss this matter with you during our next conference."

And the General Manager replied:

"Your letter July 14, having reference to position of Cashier, City Ticket Office, Galveston.

I am advised by the Traffic Department that all clerical work has been taken off this position." (Emphasis added.)

It is conceded that a substantial amount of ticket business is handled by Mr. Dwyer who holds seniority rights in District No. 9 and not in District No. 24 to which such work belongs under the terms of the agreement. It does not follow, however, that the position held by Mr. Dwyer should be transferred from District No. 9 to District No. 24. For, it is apparent that a major portion of the work assigned to him is not assignable to employees holding seniority in the latter district. On the other hand it is equally apparent that the Carrier has violated the agreement in assigning work which, under the terms of the agreement, falls in seniority District No. 24, to Mr. Dwyer who is on the seniority roster of District No. 9. See Awards 752, 973, and 1403.

Under the facts in this record we do not think an order to change the position held by Mr. Dwyer from seniority District No. 9 to seniority District No. 24 would be justified. We think, however, that the dispute should be remanded with directions to the Carrier to desist in its violation of the agreement in the particular indicated. As was said in the Opinion in Award 1125: "... it is free to adopt any arrangement, within the rules of the agreement, which will remove that violation."

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the carrier and the employee involved in this dispute are respectively carrier and employee 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 carrier has violated the agreement in assigning work belonging in seniority District No. 24 to a position held by an employee holding seniority rights in District No. 9.

AWARD

The claim is sustained to the extent indicated in the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 5th day of December, 1941.