

Award No. 1709

Docket No. CL-1641

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Carl B. Stiger, Referee

PARTIES TO DISPUTE:

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

THE ERIE RAILROAD COMPANY

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees that the Carrier violated the Clerks' Agreement and continues to violate such Agreement when it assigned work ordinarily designated as stockkeeper's work to employees who are not covered by the scope and application of the Clerks' Agreement at Buffalo, New York, and

The Carrier shall now be required to establish, bulletin and assign such work to senior qualified applicant covered by the Clerks' Agreement, and to reimburse such senior qualified applicant and other employees affected for any and all wage loss sustained retroactive to September 1, 1936."

EMPLOYEES' STATEMENT OF FACTS: Prior to January 1931, there was employed in the Storeroom at Buffalo, New York, stockkeepers who handed out materials and supplies and performed other related stockkeepers work. There was also in existence at Buffalo, New York, a separate toolroom, and the tools were under the jurisdiction of the toolroom attendants. Effective January 1931, the toolroom and storehouse were combined and as a result, machinists helpers, or toolroom attendants, coming within the scope of the Machinist's Agreement were assigned to and took over the positions formerly occupied by stockkeepers in the storeroom, the stockkeepers being released from service. The Storehouse employees at that time were not organized and not represented by any Organization. On February 20 and 21, 1935, a representation election was held and on March 11, 1935, the Brotherhood of Railway and Steamship Clerks was certified by the National Mediation Board as the representatives of the Stores Department employees on the Erie Railroad. Shortly after this certification, an Agreement was negotiated with the Erie Railroad which became effective September 1, 1936 and it included within its scope and operation, Sectional Stockkeepers, leading stockkeepers, stockkeepers, chief stockmen, car receivers and checkers and other Stores Department employees. There is also in existence at Buffalo, New York, one stockkeeper's position and a laborer's position, which positions come within the scope and coverage of the Clerks' Agreement. A check of the position indicates that the first trick toolroom attendant's duties is divided substantially as follows:

Three hours handling tools, three hours handing out materials and supplies and two hours handing out oil and waste. The second trick employees duties are substantially as follows: Two hours handing out tools, two hours handing out oil and waste, two hours handing out materials and supplies and two hours cleaning storeroom bins and booking oil slips. The third trick em-

such positions since 1923 and prior thereto, and were performing similar service to that which they are now performing when the Rules and Regulations dated September 1, 1936, which are cited in support of this claim, were made effective.

3. None of the work that is performed by these tool-room attendants has previously, subsequent to September 1, 1936, been performed by others at Buffalo, N. Y.

4. There has been no work removed from under the scope of the Rules and Regulations effective September 1, 1936, and the railroad specifically denies such contention by the employees.

5. This claim is submitted to the Third Division by the employees *ex parte*, and we therefore are not aware of any statements or contentions that are being made. We accordingly reserve the right to make further statement if it is found necessary when we are informed of the contentions presented to the Third Division by these employees.

6. The International Association of Machinists, properly designated as representatives for the tool-room attendants involved in this claim, must be considered as party to this dispute, and accordingly should be notified when oral hearing is had in order that all parties who are concerned may have proper representation as intended under the Railway Labor Act as amended, and the regulations of the National Railroad Adjustment Board.

OPINION OF BOARD: Since 1923 the position of tool room attendant at Buffalo, N. Y. has been assigned to machinists' helpers. Tool room attendants classified as machinists' helpers, worked part of the time in the tool room and part of the time handing out and distributing tools and are within the scope of the Mechanical Department Employees' Agreement.

Prior to 1931 storekeepers were employed at Buffalo who handed out and distributed materials and supplies other than tools.

In January 1931, at which time storekeepers were not organized or represented by an organization, the position of storekeeper was consolidated with the position of tool room attendant and thereafter all materials and supplies were handed out and distributed by tool room attendants.

The Clerks' Agreement, effective September 1, 1936, includes sectional storekeepers, leading stockkeepers, stockkeepers, chief stockmen, and others performing similar work. On December 6, 1940, the Organization, for the first time, protested to the Carrier and asked that the work formerly performed by storekeepers be removed from the position of tool room attendant and assigned to qualified applicants covered by Clerks' Agreement.

The consolidation, which antedated the Clerks' Agreement, did not violate an existing agreement, and, since the work of storekeeper was transferred to tool room attendants in 1931, all storekeeping work at Buffalo has been attached to the position of tool room attendant and the attendants devoted from two to three hours a day to store room work.

In 1941 the Mechanics' Organization refused to agree to the request of Petitioner to remove the work performed by storekeepers prior to 1931 to the Clerks' Organization.

The execution of the Clerks' Agreement did not bring within its scope clerks' work which was then incidental to a position covered by another agreement. The Board is of the opinion that the storekeepers' work which the Petitioner asks to have removed from the position of tool room attendant is incidental to the latter position and constitutes a limitation on the scope of work included in the agreement.

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 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 there was no violation of the agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 12th day of February, 1942.