

Award No. 2168
Docket No. CL-2155

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Bruce Blake, Referee

PARTIES TO DISPUTE:

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

BROOKLYN EASTERN DISTRICT TERMINAL

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

1. The position of Flour Checker, located at North 8th Street, Brooklyn, N. Y., created prior to March 4th, 1942, shall be bulletined in accordance with Rule 12, showing location (building and street number), title, hours of assignment, rate of pay, duties and meal period, and

2. That employes adversely affected, because of failure of the Carrier to advertise this position, be compensated for monetary losses retroactive to March 4th, 1942.

EMPLOYES' STATEMENT OF FACTS: On March 4th, 1942, the following letter was addressed to Mr. Thos. F. Smith, General Agent:

"In accordance with the prevailing agreement between the Brotherhood of Railway & Steamship Clerks and the Brooklyn Eastern District Terminal to the effect that new positions must be bulletined, I respectfully submit an oversight on your part.

At North Eighth Street, a new flour shed was opened some time ago. Due to the fact that the warehouse for some time had not enough work in it for a steady assigned checker, nothing was said about one, but, now the shed holds over Forty (40) carloads of flour and a checker should be assigned to it.

There should be a bulletin posted for this position, even if the position was only a temporary one. Hoping to have the same co-operation from you as we have had in the past, I remain

Respectfully yours,

(Signed) J. W. Gallagher
Division Chairman."

A full time checker was placed on the position at North 8th, Street, but, the Carrier refused to bulletin the position. Another letter was addressed to Mr. P. J. Martin, Superintendent, (who had apparently taken over the case for Mr. Smith, the General Agent), which reads as follows:

POSITION OF CARRIER: It is the position of the carrier that the transferring of the work formerly performed in Section "E" of the North 10th Street Building to Section "B" of the North 8th Street Building did NOT create or establish a new position. The duties of the checker were not changed; the rate of pay was not changed; the hours of work were not changed; no change in a seniority district was involved; simply a change from one building to another. None of the employes of the Brooklyn Eastern District Terminal were "adversely affected because of failure of the carrier to advertise this position"—and—no "monetary losses retroactive to March 4th, 1942" are involved.

It is the further position of the carrier that when there is not sufficient work to keep a checker continuously employed in any particular building, his services may be utilized in any of the buildings of the Brooklyn Eastern District Terminal. This position is supported by the only Bulletins which have ever been posted by this company advertising a position for a Checker. These Bulletins (No. 33, dated October 6th, 1941, and No. 41, dated January 26, 1942) covered the same position (one which was created when an addition known as Section "C" was made to the North 7th Street Building and which was subsequently readvertised as a vacancy when the original holder entered the armed forces of the United States) and are shown as Exhibits Nos. 1 and 2, respectively. It will be observed that the location of the position is shown as—

"7-C HOUSE AND OTHER ASSIGNED LOCATIONS AS BUSINESS CONDITIONS WARRANT."

The carrier maintains that when positions ARE advertised, the bulletin does NOT have to show the "building and street number" as there is no requirement in the agreement that services performed by the individual checker be confined to a particular building on a particular street. Due to the fluctuation in the volume of business, it would not be feasible to confine the work of checkers to a particular building on a particular street.

OPINION OF BOARD: The transfer of Champlin from Section "E" of the North 10th Street Building to Section "B" of the North 8th Street Building constituted neither the abolishment of a checker's position nor the creation of a new one. The character of his work, his hours of service and rate of pay were unchanged. And nobody's seniority rights were affected by the change.

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 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; and

That no violation of the controlling agreement has been established.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 28th day of April, 1943.