

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Edward F. Carter, Referee

PARTIES TO DISPUTE:

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

THE LAKE TERMINAL RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that the Carrier violated the rules of the Clerks' Agreement on February 1, 1946, when it permitted and required an employe not covered by the Clerks' Agreement to perform clerical work covered thereby; and

That Carrier shall now compensate employe Joe Brove for one day's pay at the regular rate of his position for clerical work performed by Yardmaster Kelly on February 1, 1946.

EMPLOYEES' STATEMENT OF FACTS: During February, 1946, many positions on the Lake Terminal Railroad at Lorain, Ohio were abolished because of the steel strike. On February 1st, there were certain switch crews working and on the day in question, the Yardmaster handled the crew board, marking up crew members to take their place, marking up the board accordingly and making necessary records incidental thereto. This work is regularly assigned to and is performed by the third trick crew dispatcher whose position had been abolished on this date.

POSITION OF EMPLOYEES: There is in effect between the parties an Agreement bearing effective date of February 1, 1945, which contains the following rules:

Rule 1 (Scope) reads as follows:

"These rules shall constitute an agreement between The Lake Terminal Railroad Company and the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employes, and shall govern the wages, hours of service and working conditions of the following employes of The Lake Terminal Railroad at Lorain, Ohio, subject to such modifications as are indicated herein.

Employes Affected

"CLERKS, being those employes who regularly devote not less than four (4) hours per day to the writing and calculating incident to keeping records and accounts, writing and transcribing letters, bills, reports, statements and similar work, and to the operation of office mechanical equipment and devices in connection with such duties and Weighmasters, Messenger-boys and Office-boys.

assigned to do clerical work but was assigned for the purpose of protecting the property of this carrier during the period of the day when no crews or other employees were working. If Mr. Kelly did take such a call, as claimed it was merely incidental. Further, Mr. Brove was not the senior available clerk on this date and would not have been eligible for call even if the services of a clerk had been required.

For the foregoing reasons, the Carrier submits that the claim should be denied.

OPINION OF BOARD: On February 1, 1946, there was no switch crew or other employees working except the General Yardmaster, due to a strike at the National Tube Company plant, the largest industry served by this carrier. Sometime during the night, a trainman who had been called for the first trick on February 2nd, reported to the General Yardmaster by telephone that he was sick and would be unable to work. The General Yardmaster accepted the call. It is the contention of the Organization that this was work to be performed by a Clerk and that Claimant was entitled to the work.

No basis for a claim exists. There were no crews working and no necessity for a Clerk shown. The General Yardmaster being on duty for the sole purpose of protecting the Carrier's interests at a time when no other employees were working, performed a service incidental to his position which did not amount to a violation of the Clerks' 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 the Carrier did not violate the current Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 21st day of March, 1947.