

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Emmett Ferguson, Referee

PARTIES TO DISPUTE:

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

SEABOARD AIR LINE RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that the Carrier violated the Rules and provisions of the Clerks' Agreement:

(a) When on March 30, 1951, it arbitrarily and unilaterally abolished the position of Cashier at the freight station at Wadesboro, North Carolina, and assigned the duties and work of this position to an employe not covered by the Clerks' Agreement, thereby removing the duties and work of the Cashier's position from the Scope of said Agreement.

(b) That the position of Cashier at Wadesboro, North Carolina, be restored to the Scope of the Clerks' Agreement.

(c) That each employe affected by this violation, holding Operating Department seniority on the Clerical Seniority Roster of the Georgia Division as of August 21, 1951, shall be compensated for all losses sustained resulting therefrom.

(d) This claim is made for July 23, 1951, and subsequent thereto, until this work is returned to an employe covered by the Clerks' Agreement or the position is returned to the Scope thereof.

(e) That interest at the legal rate of the State of North Carolina be allowed on the above claim from July 23, 1951, and subsequent thereto, compounded quarterly, until this violation is corrected as above.

(f) Time worked on this position and amounts earned to be determined from the Carrier's records.

EMPLOYEES' STATEMENT OF FACTS: Prior to March 16, 1951, the force at Wadesboro consisted of a monthly-rated agent and two telegraphers who worked on a round-the-clock basis and were located at the passenger station. A cashier and station laborer were located at the freight station, a distance of a hundred yards more or less and across the tracks from the passenger station, and were assigned to work from 8:00 A. M., to 5:00 P. M., with one hour for lunch, Monday thru Friday.

employees covered by the Telegraphers' Agreement have the right to perform clerical work that is incident to and in proximity with their telegraphic duties.

All data used herein has been discussed with, made available to or is well known by Employee representative.

(Exhibits not reproduced)

OPINION OF BOARD: This claim is opposed by the Carrier on the first ground that no notice of the hearings of this Division has been given a third party "involved" in the claim.

Section 3 First (j) of the Railway Labor Act requires:

" * * * the several divisions of the Adjustment Board shall give due notice of all hearings to the employe or employes and the carrier or carriers involved in any disputes submitted to them."

The question presented is identical with that raised and decided in Award No. 6482. The same reasoning, opinion, findings and award expressed therein are repeated and re-stated as our opinion in the present docket.

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 parties to this dispute, the Brotherhood of Railway and Steamship Clerks and Seaboard Air Line Railroad Company, attended an oral hearing thereon on February 3, 1953;

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 no jurisdiction over the persons involved herein who have not been given notice of the hearing.

That this Division of the Adjustment Board has jurisdiction by law over all the classes of employees and the dispute involved herein;

That the claim should be dismissed without prejudice for lack of jurisdiction over the persons not notified.

AWARD

Claim dismissed without prejudice and in accordance with the Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Signed) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 11th day of February, 1954.