

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

LeRoy A. Rader, Referee

PARTIES TO DISPUTE:

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

CHICAGO NORTH SHORE AND MILWAUKEE RAILWAY

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:

(1) When on July 26, 1948, Carrier abolished position No. C-97 titled Assignment Clerk, theretofore established as a position and filled pursuant to rules of agreement effective April 1, 1945 at Highwood, Illinois, and by unilateral action transferred the work normally attached to the position of Assignment Clerk to be performed by other than employees embraced within the Scope Rule of our Agreement with the Carrier;

(2) That the position of Assignment Clerk as it existed immediately preceding July 31, 1948 be reinstated and bulletined in accordance with Rule 9 of our agreement with the Carrier, at the rate of pay established by agreement between the parties, namely, \$280.00 per month (plus general wage increases subsequent thereto); and

(3) That B. C. Raymond and all other employees adversely affected as a result of this violation be compensated for all wage loss sustained, representing the difference between the rate of pay of their position and the rate of pay of the position to which they would have been assigned, or are hereafter assigned in filling said position of Assignment Clerk, commencing with August 1, 1948 and continuing so long as the violation continues.

EMPLOYEES' STATEMENT OF FACTS: Our current Agreement with the Carrier governing the working conditions of the employees represented by the Brotherhood became effective April 1, 1945. Part of Rule I—Scope—of said Agreement reads:

"Positions within the Scope of this Agreement belong to employees covered thereby and nothing in this Agreement shall be construed to permit the removal of positions from the application of these rules, except in the manner provided in Rule 65."

In this case, as in those, employees outside the Clerk's agreement had performed certain duties as a part of their regular work for many years prior to World War II. Because of the result of war conditions, certain clerical work incident to the Dispatcher's Office was temporarily delegated to others to perform. With the decrease in business following the cessation of hostilities, the need for such assistance disappeared and the clerical work incident to the Dispatcher's Office reverted to where it had always been prior to the war. The position of Assignment Clerk did not exist prior to World War II.

The Brotherhood is here advancing a monopolistic theory that has been repeatedly denied them by this Board.

It is the further position of the carrier that B. C. Raymond and other clerical help who may have been on the "C" Seniority Roster had a chance at one time or another subsequent to November 26, 1945 to bid in on one or another of the four assignment clerk positions, but did not elect so to do.

It is also the further position of the carrier that the claim advanced on behalf of said B. C. Raymond and others is uncertain, indefinite and practically incapable of being reduced to any monetary loss to them.

All facts and supporting data contained herein have in substance been presented to the Brotherhood through correspondence and/or in conference.

WHEREFORE, the Carrier moves that the aforementioned claim be dismissed.

(Exhibits not reproduced.)

OPINION OF BOARD: We deem that no useful purpose would be served in going into the merits of this claim by reason of the delay in progressing it to the Board.

This dispute came into being by Carrier's bulletin of July 26, 1948 abolishing assignment of Clerk position No. C-97 effective July 31, 1948. Claim was filed March 29, 1949 and denied April 4, 1949. It was then appealed to Carrier's President, the highest officer designated to handle such claims and denied July 1, 1949. The claim then lay dormant for approximately four years.

In many previous awards of this Division we have passed on this question. The purpose of the Railway Labor Act is to provide for a prompt and orderly settlement of all disputes concerning rates of pay, rules or working conditions.

While there is no time limit stated in which an appeal is to be taken from an adverse determination of claims, yet it is contemplated that disputes arising shall be handled expeditiously and it must be construed that this means within a reasonable time in the light of all the attending circumstances. In this connection see Awards 4941, 5949, 6229, 6526, 7048 and 7135.

We do not consider that this claim comes to this Board within a reasonable time in the light of all the circumstances as shown by this record and the additional fact that it presents a continuing claim for a period of several years.

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

Claim dismissed in view of the long delay in processing.

AWARD

Claim dismissed in accordance with Opinion and Finding.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 7th day of March, 1956.