

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Livingston Smith, Referee

PARTIES TO DISPUTE:

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

CENTRAL OF GEORGIA RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees, that,

1. The Carrier violated the Rules of the Clerks' Agreement when, effective January 17, 1954, it unilaterally and arbitrarily abolished the position of Ticket Clerk, Griffin, Georgia, Ticket Agency, occupied for many years by Miss Sara White, total salary \$307.22 per month (\$285.11 per month plus \$22.01 cost-of-living adjustment), with assigned hours of from 3:30 P. M., to 12:30 A. M., Saturdays through Wednesdays, off days Thursdays and Fridays and transferred all of the work thereof, including the two relief days of Thursdays and Fridays and which were worked by Relief Clerk Chas. L. White in combination with another assignment of Chief Yard Clerk which was being relieved two (2) days per week and one (1) other day's work in Freight Agency, to the Ticket Agent and Relief Telegraph Operators, employees not covered by the Clerks' Agreement and that therefore,

2. Ticket Clerk, Miss Sara White and Relief Clerk Chas. L. White shall now be restored to their respective positions and paid for all wage losses sustained since January 17, 1954 and that,

3. Any and all other employees of Macon Division Line of Road Seniority District No. 2 shall be paid for all wage losses sustained where they have suffered such losses as result of the Carrier's action.

EMPLOYEES' STATEMENT OF FACTS: For many years prior to January 17, 1954, and particularly since September 1, 1949, Miss Sara White had occupied the position of Ticket Clerk at Griffin Passenger Station, Griffin, Georgia, and the duties, hours of service and salary of this position as of date of its illegal abolishment were as follows:

Duties: Giving information to patrons concerning connections of trains in and out of Atlanta, Georgia and Griffin, Georgia and Connections to be made on through trains throughout the Nation.

To show the fallacy of the position taken by the Clerks, let's reverse it and say that Carrier abolished the position of **Ticket Agent** (O.R.T. position), and turned the work over in its entirety to the **Ticket Clerk**. The Order of Railroad Telegraphers would have filed claim, and rightly so in this instance, because it would not only be a case of the "tail wagging the dog," but the Telegraphers could prove they, for many years up to 1912, performed this work at Griffin, Georgia before any clerks were ever hired to assist the Ticket Agent, and they (Telegraphers' craft) have performed it ever since. It is obvious the position in which the Carrier would find itself.

This claim is simply an effort to compel the employment of two workers where there is only one job to be done. The claim should be declined.

As set out previously in Carrier's Statement of Facts, the language contained in paragraph (3) of this claim is entirely out of order. Exception was taken on the property to the phrase

"Any and all other employees . . . shall be paid for all wage losses sustained where they have suffered such losses as result of the Carrier's action."

Exception is taken now before this Board for the reason that the Railway Labor Act itself contemplates that the carrier will be apprized of the name of the individual claimant. How else can a claim be checked or intelligently handled? Paragraph (3) of the instant claim is vague, non-descriptive and uncertain, and should be dismissed. See Awards 6101, 6179, 6290, 6339, 6348, and others of this Board.

CONCLUSION

By facts of record, Carrier has clearly shown beyond a shadow of a doubt that there is absolutely no merit in this claim because

- 1—It is not supported by any rule of the effective agreement,
- 2—The position was abolished in strict accord with Rule 20, "Reduction and Increase In Force And Positions Abolished",
- 3—Notwithstanding other factors, every consideration was accorded Claimant Sara White, first by negotiation, and second by proposals to settle the claim on the property, and
- 4—The work involved does not belong exclusively to the Clerks or any other craft. Also, the doctrine of ebb and flow likewise governs.

The claim should be denied in its entirety, and the Carrier respectfully urges this Board to so hold.

All data submitted in support of Carrier's position in this case has been presented orally or by correspondence to the Employees or duly authorized representative thereof, and made a part of the dispute.

(Exhibits not reproduced.)

OPINION OF BOARD: The locale of this dispute is Griffin, Georgia. Claim is made that rules of the effective agreement were violated when certain work, previously performed by the named Claimants, was assigned to employees not covered by the effective agreement, and resulted in the improper abolishment of the position affected.

The position involved is that of Ticket Clerk, a 7-day position, assigned hours 3:30 P. M.-12:30 A. M. Claimant Miss Sara White occupied this position Saturday through Wednesday. The rest days of the position, that is

Thursday and Friday, were filled by Relief Clerk, Charles L. White. Mr. White occupied other positions than Ticket Clerk on his other work days. This Ticket Clerk position was the only one existing at this location and was abolished effective January 17, 1954. The work of the position was assigned to the Ticket Agent, a position not covered by the effective agreement, and it is this action that forms the basis of the Organization's request that the Board find (1) that a violation of the agreement exists (2) that Claimants, Ticket Clerk, Sara White and Relief Clerk, Charles L. White, should be restored to their positions, with pay for all wage loss sustained since January 17, 1954, and (3) that all other Employees should be made whole for any wage loss suffered.

The Organization asserts that this work of the abolished Ticket Clerk position was and had been for many years Clerks work covered by the Clerks' agreement and that the scope rule here specifically covers both positions and work. The pertinent portion of such rule reads as follows:

"Positions or work within the scope of this agreement at effective date thereof belong to employees covered thereby, and nothing in this agreement shall be construed to permit the removal of positions or work from the scope and operation of these rules except in the manner provided in Rule 73."

The Respondent asserted that the work here involved had historically been performed by employees not covered by the Clerks Agreement and had been assigned to Clerks only as the amount of such work increased to the extent that justified the creation of Ticket-Clerk positions. It was further pointed out that such work had declined to the point that no Ticket-Clerk positions were now required to perform the work which had at one time constituted the duties of three such positions on an "around-the-clock" basis. The Respondent contended that the Scope Rule reserved no "position" or "work" to employees covered by the Clerks Agreement and that the assignment of the remainder of such duties was permissible under the "ebb and flow" doctrine adopted by prior awards of this Board.

It is fundamental that the rights of Management in regard to assignment of work is unabridged save and except as the same may have been modified by an existing collective agreement. If this condition exists here it stems from that portion of the Scope Rule quoted above. The record is clear that at the time the current agreement was executed employees covered thereby were performing the work in question. The restrictions contained therein are without ambiguity. Neither positions nor work may be removed from the scope of the agreement except by negotiation. This was not accomplished and the performance of this work by employees not covered by the agreement was in violation thereof. Award 7129. Miss Sara White and Charles L. White should be paid for all loss sustained since January 17, 1954.

While we have found that the work in question came within the scope of the agreement, this Board is without authority to re-establish the abolished positions. Any determination of the manner in which this work is to be performed rests with the Respondent.

Claim is likewise made in behalf of "all other employees of Macon Division Line of Road Seniority District No. 2" but the Record does not show what other employees were affected and the claim should be allowed only to the Claimants named above. Award 5776.

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 violated the agreement in accordance with the Opinion.

AWARD

Claims sustained in accordance with the Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 30th day of November, 1956.