

Award No. 8259

Docket No. CL-7649

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Paul N. Guthrie, Referee

PARTIES TO DISPUTE:

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

THE CHESAPEAKE AND OHIO RAILWAY COMPANY

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

(a) That the Carrier violated the terms of the Clerks' Agreement No. 7 and memoranda in connection therewith when at 4:30 P. M. on Monday, January 25, 1954, it discontinued position No. A-3(75), Expert Rate Clerk, Office of Auditor of Overcharge Claims, rate \$16.93 per day, then held by H. V. Knight, Jr., under seniority rules of Agreement No. 7, claiming position abolished when, as a matter of fact, a substantially full-time position existed before and after discontinuance, and

(b) That H. V. Knight and others deprived of their regular position as a result of the discontinuance of position No. A-3 (75) and displacements required as a consequence thereof be paid the difference between the wage rate of their regular position under the Agreement and the position required to work, also employees furloughed in this reduction be allowed compensation equal to the extent of their losses, with claim continuing until position No. A-3 (75) is reinstated with duties as before and the affected employees returned to their respective positions and work held under the Agreement as of January 24, 1954.

EMPLOYEES' STATEMENT OF FACTS: The claim as here presented arises as a result of a dispute between the parties as to the spirit and intent of the rules of Clerks' Agreement No. 7 pertaining to the establishment and maintenance of permanent positions as well as the orderly exercise of seniority under that Agreement. The claim arose as the result of the abolishment of position No. A-3(75), classified as Expert Rate Clerk, located in the office of Auditor of Overcharge Claims, Accounting Department, General Office Seniority District, Richmond, Virginia, effective 4:30 P. M., Monday, January 25, 1954.

For a number of years Mr. Frank L. Vellines was employed in the office of Auditor of Overcharge Claims with a seniority date and standing on the seniority roster for that office dating from January 23, 1922. On August 16, 1924 Mr. Vellines was promoted to permanent position of Expert Rate

in 6187 full eight hours work admittedly remained to be performed, whereas in the instant case the evidence is that multiple positions of the same kind or class were involved and the work went down from 40 man hours per day to 32 man hours per day.

The antecedent cases, therefore, furnish only basis for declining the claim in this case.

Conclusions

The Carrier has shown by its evidence:

1. That a definite and bona fide reduction in work occurred to justify abolishment of a position.
2. That the reduction involved multiple position work and was applicable to the group as a group.
3. That the position held by the junior employe was abolished so as to respect seniority.
4. That all procedural requirements of the rules were met in connection with the abolishment.
5. That Knight was permitted and did exercise his seniority in accordance with applicable displacement rules.
6. Therefore, there has been no breach of the agreement rules in any particular, and the claim should be declined.

All data contained in this submission have been discussed in conference or by correspondence between the parties hereto.

(Exhibits not reproduced.)

OPINION OF BOARD: The claim in this case grows out of certain rearrangement of work which the Carrier made in the office of Auditor of Overcharge Claims, General Office, Seniority District, Richmond, Virginia. In particular, the work of five employes concerned with "interline" rates was affected by the action giving rise to the instant complaint. The specific event giving rise to the complaint here involved was the Carrier's action on January 19, 1954 in abolishing Expert Rate Clerk position No. A-3(75) held by H. V. Knight, Jr., the primary claimant in this case.

The basic facts in this docket are not in dispute. While the five employes doing primarily "interline" rate work were doing the same class of work and receiving the same rate of pay, each of them specialized in some degree in performing particular phases of the work. In addition to the five Expert Rate Clerks referred to above there were five other Expert Rate Clerks performing appropriate work to their classification. It is undisputed in the record that Claimant Knight was the Expert Rate Clerk of least seniority.

Because of a reduction in the amount of work to be performed by the five Expert Rate Clerks doing mainly "interline" rate work, the Carrier decided that all of the necessary work of this group could be performed by four Expert Rate Clerks. Therefore, on January 19, 1954 the Carrier issued a bulletin notice abolishing Expert Rate Clerk position No. A-3 (75), effective at 4:30 P. M., January 25, 1954. This position thus abolished had been held by Claimant Knight, the junior employe in the group.

Evidence of record leads to the conclusion that the work to be performed by the "interline" group of five employes decreased substantially at or near the time the position in question was abolished. This appears to have resulted from three changes. First, a marked decrease in the number of waybills to

be handled. Second, change in the system of handling Federal Transportation Tax. Third, the raising of the correction minimum from 99 cents to \$1.99. These factors made for a marked decrease in the amount of work for the "interline" group.

Petitioner does not challenge the right of the Carrier to abolish positions where the decline in work is sufficient to justify such action. Part of the controversy in the instant case goes to the question of which position should have been abolished in the event it was appropriate to abolish one position. Petitioner contends that it should have been a position other than the one held by Claimant Knight.

It is pertinent to observe that when Knight's position was abolished the remaining work was given to employees of the same class with the same title and paid the same salary. Therefore, there was no question of giving the work to employees in a different seniority district or to employees in a lower paying classification.

It is appropriate to point out also that Petitioner does not challenge the procedural handling of this matter by the Carrier.

The record shows that the Carrier abolished the position held by the junior employee. This would appear to be in accordance with Rule 18 (b) as well as consistent with many Awards of this Division.

Since the record shows a substantial reduction in the work available for the "interline" group, and since such reduction in work did not infringe upon just one position, but upon a group of positions, it is appropriate that the position held by the junior employee be abolished.

Awards 6187, 6945 and others.

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 agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. Ivan Tummons
Executive Secretary

Dated at Chicago, Illinois, this 28th day of February, 1958.