

Award No. 8873

Docket No. CL-8568

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Francis B. Murphy, Referee

PARTIES TO DISPUTE:

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

SOUTHERN RAILWAY COMPANY

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

(a) The Carrier violated the Agreement between the Parties when at Atlanta, Georgia, certain work hereinafter described previously assigned to and performed by employees holding seniority in the district of Agent, was unilaterally transferred to and assigned to employees holding seniority in the seniority district of Superintendent of Buildings and,

(b) The senior available extra or furloughed Group 5 employees shall now be compensated at pro rata rate for each day, beginning January 17, 1955, the violation stated in part (a) shall continue.

EMPLOYEES' STATEMENT OF FACTS: The Carrier has, at 125 Spring Street, S. W., Atlanta, Georgia, an eight story office building. Parts of the first, second and third stories are occupied by employees of the local Agent, Mr. M. W. Taylor. The first story is occupied by employees engaged in the receipt and delivery of freight. The portions of the second and third stories occupied by the Agent's employees is occupied by the Agent's forces who bill and rate, the Cashier's office, the Agent's office, and other clerical employees engaged in performing work of the Atlanta Agency. The remainder of the building is occupied by the Carrier's General Office employees, such as the various accounting departments, the Superintendent of Car Service, Stationer, etc.

Prior to the effective date of the instant claim, two Porters or Janitors were employed in the office or seniority district of Agent, Mr. Taylor. The duties of the Porters or Janitors was to wash windows, keep the offices clean, look to the condition of rest rooms, keeping them clean and sanitary and, in general, perform work required of a Janitor or Porter during day-time hours

statement of facts, provides that when a position is transferred from one seniority district to another, the incumbent will have prior rights to the position to be transferred, taking with him his accumulated seniority in the district from which transferred. If the incumbent does not elect to transfer, he may exercise a displacement right in his seniority district. In the instant case, a position was not transferred because the amount of work involved did not even approach eight hours per day. The small amount of work was absorbed by the existing force of building porters, and the incumbent of the abolished position continued to work in his seniority district as a freight handler in accordance with his seniority and qualifications.

In this particular case, it will be observed that the freight office is located in the building constituting the seniority district of building porters. Also, prior to 1943 all work of cleaning the freight office was performed exclusively by the building force. From 1943 to 1955, when the agency porter performed the supplemental cleaning service during his regular hours, the night force continued to clean the freight office, the same as other offices throughout the two buildings. Carrier has reverted to the former practice, which it had a right to do.

Since February 1, 1955, the work formerly done by the agency porter, and now being performed by the building porters and janitors, has consisted primarily of cleaning the men's rest rooms and periodically washing the windows of the freight office. Mr. W. L. Winslett, Superintendent of Buildings, confirms the Agent's statement that cleaning, sweeping and waxing floors, cleaning rest rooms and other general cleaning work, is done throughout both buildings by the force under his jurisdiction. Most of this work is performed at night. Other utility work, including the supplying of paper towels, tissues, washing office windows, etc., is performed by the day force under his jurisdiction.

Carrier has shown that the agency porter position was no longer needed and was abolished in accordance with the terms of the agreement. Although the employes alleged that the agreement was violated, at no time during the handling of this case on the property did the employe representatives cite any rule in support of the claim. As discontinuance of the porter position did not violate the effective agreement, the claim for restoration of the position is without merit and should be denied. Carrier respectfully requests that the Board deny the claim in its entirety.

All pertinent facts and data used by the Carrier in this submission have been made known to the employe representatives.

(Exhibits not Reproduced.)

OPINION OF BOARD: Prior to January 16, 1955, the Carrier maintained two (2) Group 5 positions of Porter or Janitor, assigned hours 8:00 A. M. to 5:00 P. M., in Carrier's Local Freight Office, Atlanta, Georgia. The incumbents thereof (Weddington and Smith) had respective seniority dates of October 2, 1936 and December 7, 1940 on the Group 5 seniority roster.

Effective January 17, 1955 the Carrier removed Smith from his Porter position and transferred him to position requiring him to perform freight handling work at the same location, in the same seniority district. The duties of the claimant consisted of cleaning the Agent's and the Chief Clerk's offices, the men's restroom, icing and servicing the office water coolers, sweep-

ing and polishing and periodically washing the windows. The time consumed in this cleaning work averaged about four hours per day and for the remaining four hours this porter was used as a helper on the freight office salvage truck.

Carrier maintains a force of building porters, janitors, charmen and charwomen under the jurisdiction of the Superintendent of Buildings. These employes are regularly assigned to perform work of cleaning on all floors of the two office buildings.

It is the Carrier's contention that prior to 1943 all work of cleaning the freight office was performed exclusively by the building force and that the freight office is located in the building constituting the seniority district of building porters. The Carrier also contends that because of the discontinuance of messenger trips of the Porters which average about three hours per day, plus the installation of electric drinking fountains eliminating the necessity for servicing the water coolers, there was no further need for two Porters or Janitors, as one (Smith) was only working four hours each day at this work and the remaining four hours were served as helper on the freight office salvage truck. Therefore one of the agents-porter position was abolished.

In abolishing this position the Carrier has the right in the Agreement under Rule 46 Section (f) (2) to abolish positions when they are unnecessary because of insufficient work. In this situation the Carrier shows very clearly that only one Janitor was needed after January 16, 1955 and when "one of the positions is to be abolished it will be the position filled by the junior of the two employees." (Rule 20)

The record shows that the building force of Porters and Janitors working under the Superintendent of Buildings has always cleaned the offices of the General Office Building including the Agent's office and we cannot deny the Carrier's right to assign employes or work so long as such assignments are made under the terms of their agreement.

Mr. Weddington, the senior employe, continues to work in the Agent's office, so there can be no charge of changing seniority districts in his position. Smith was assigned to a full day at the work he had been doing for four hours each day to fill in his day as porter-helper on the salvage truck.

We are unable to find any transfer of Smith's duties to employes of another seniority district but do find that sufficient Porter duties were eliminated to require the services of only the one porter.

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 Employes involved in this dispute are respectively carrier and employes 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 Tummon
Executive Secretary

Dated at Chicago, Illinois, this 6th day of July, 1959.