

Award No. 9387
Docket No. CL-8313

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Martin I. Rose, Referee

PARTIES TO DISPUTE:

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

**CHICAGO, MILWAUKEE, ST. PAUL AND
PACIFIC RAILROAD COMPANY**

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

1. Carrier violated and continues to violate the provisions, intent and purpose of Clerks' Rules Agreement and Memorandum of Agreement S-2 and Memorandum of Agreement between the General Chairman and the Assistant General Storekeeper dated at Milwaukee May 5, 1951, when it discontinued Electric Crane Operator's position No. 14 at Aberdeen, S. D.

2. Carrier shall be required to post proper bulletin which shall be accessible to all employees affected in accordance with the provisions and purpose of the rules and Memorandums of Agreement S-2 and Agreement between the General Chairman and Assistant General Storekeeper.

3. Employee Neils F. Hansen, regular occupant of Position No. 14 at the time it was discontinued, shall be compensated for all loss suffered until such time as the position is properly abolished in accordance with the Rules Agreement and Memorandum of Agreement S-2 and Memorandum of Agreement between the General Chairman and Assistant General Storekeeper.

EMPLOYEES' STATEMENT OF FACTS: Effective on or about July 28, 1929, Employee Neils F. Hansen, seniority date of April 30, 1923 on what is now known as Seniority District No. 118, was assigned to Electric Crane Operator's position, No. 14 at the Roundhouse Storeroom at Aberdeen, South Dakota, and in connection with the crane work which he performed for the Store Department he also performed the crane work required in the Locomotive and Car Departments. Mr. Hansen held that position continuously from the date of his assignment until September 7, 1952.

keeper on November 5, 1952) did not affect claimant Hansen in any way nor deny him any right or privilege, nor can it be the basis for any monetary claim and we respectfully request that the claim be denied.

All data contained herein has been furnished to the employees.

(Exhibits not reproduced)

OPINION OF BOARD: The record establishes beyond question that Claimant, who occupied the position of Electric Crane Operator at Aberdeen, South Dakota, until it was abolished on September 7, 1952, and that position was in the Store Department seniority district. Manager of Stores, J. V. Miller, wrote the General Chairman under date January 12, 1946, as follows:

"Your letter of December 26, file 4-B-22, concerning seniority status of Crane Operator Neils Hansen, Aberdeen Store.

"As soon as new seniority lists are made, this man will appear on the Aberdeen Store Department seniority roster."

On February 21, 1955, Assistant to Vice President, Downing, wrote to the General Chairman, among other things, as follows:

"* * * However, as indicated in Mr. Miller's letter of October 8, 1945, the removal of employe Hansen's name from the Store Department roster was in error as his seniority was being protected in the Store Department and the next seniority roster issued showed the name of employe Hansen. . . . I do not disagree with the fact that prior to the abolishment of employe Hansen's position on September 7, 1952 he occupied a position in the Store Department and held seniority in the Store Department seniority district even though his name was then carried on the Locomotive Department payroll. . . ."

As a result, the notices of the abolishment of the position were subject to the requirements of Rule 12(c) of the Agreement and the applicable provisions of the Memorandum of Agreement designated "S-2". The record shows that such notices were not issued, placed on bulletin boards and furnished, in accordance with these requirements.

The record also shows that Claimant relinquished his seniority rights and employment relationship and retired under the provisions of the Railroad Retirement Act. Compensation claimed in paragraph 3 of the claim should terminate as of the date of such retirement.

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 Employee involved in this dispute are respectively Carrier and Employee 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 Agreement was violated.

AWARD

Claim sustained in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 2nd day of May 1960.