

Award No. 9806

Docket No. DC-9340

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Donald F. McMahon, Referee

PARTIES TO DISPUTE:

JOINT COUNCIL DINING CAR EMPLOYES, LOCAL 370

NEW YORK CENTRAL RAILROAD

STATEMENT OF CLAIM: Claim of Joint Council Dining Car Employees Local 30 on the property of New York Central Railroad for and on behalf of Third Cooks H. Floyd, George Francis and all other employees similarly situated, that they be reinstated to positions as Third Cooks and compensated for all time lost retroactive to August 1, 1955, date of abolishment of said position as Third Cooks on Trains 51-50 account unilateral abolishment of said positions by Carrier while work on said positions remained rendering said abolishment of positions in violation of agreement.

EMPLOYEES' STATEMENT OF FACTS: On April 8, 1955 Carrier bulletined for bid position of Third Cooks on Trains 51-50 as appears from Employees' Exhibit A attached hereto. Claimants and other employees similarly situated were assigned as third cooks being the successful bidders. On July 1, 1955 Carrier issued its bulletin abolishing position of four third cooks, Trains 51-50 effective August 1, 1955. Employees' Exhibit B.

Carrier will not deny that the abolishment of the third cook assignment on Trains 51-50 was unilateral and accomplished without conference or agreement with Organization.

On August 4, 1955 Organization's General Chairman filed the claim on the property protesting abolishment of the position of third cooks, Trains 51-50 as being in violation of the agreement. Employees' Exhibit C. On August 16, 1955 Carrier's Superintendent Dining Service denied the claim lodged. Employees' Exhibit D. On August 30, 1955 that decision was appealed to Carrier's Manager Dining Service Department, the highest official designated on the property to consider such appeals. Under date of September 2, 1955 that official affirmed prior denial of the claim. Employees' Exhibit E.

The facts which must be admitted in this docket are that the dining equipment in the consist of Trains 51-50 are equipped with a kitchen in which the broiler is located at the center and the range at one end. The crew consist established by bulletin dated April 8, 1955 (Employees' Exhibit A) was chief cook, second and third cooks.

The work of positions to which claimants were assigned was that of broiler cooks and dishwashing. After abolishment of the positions giving rise to the instant claim, the chef cook washed dishes as well as prepared and carved meats

Award No. 6442, Third Division

"If the Carrier has the unlimited right to add workers to its force, then it has the limited corollary right to remove them, subject to those provisions which the Carrier voluntarily assumed by signing the governing agreement."

Award No. 6945, Third Division

"The Carrier may in the interests of economy and efficiency of its operations abolish positions and rearrange the work thereof unless it has limited its right to do so by the provisions of the collective agreement. However, when doing so, the work of the positions abolished must be assigned to and performed by the class of employees entitled thereto."

Conclusion

For the reasons hereinbefore cited, Carrier respectfully submits that the claim of the Employees in this docket is without merit and should be denied.

All the facts and arguments herein presented were made known to the Employees during handling of the case on the property.

(Exhibits not reproduced.)

OPINION OF BOARD: Claims here are premised on the contention that Carrier reinstate all Third Cook positions on Trains 51-50, as abolished on said trains August 1, 1955, and to compensate all employees affected by said abolishment on the contention that by such unilateral action by Carrier in abolishing such positions, the work of said positions remained, all of which action constitutes a violation of the Scope Rule and the provisions of Rule 4 (b), Classification of Positions.

Carrier relies upon the provisions of Rule 4 (c) and 4 (i) to support its position, as well as Rule 3 (k).

From a reference to the record before us, we are unable to find any rule which deprives Carrier of the right to abolish unneeded positions and to rearrange the work remaining to be performed by other employees of the same class or classes entitled to such work. Award 6187.

In Award No. 8087, on this same property and with same parties, this Board has already determined facts and circumstances similar to the situation here before us. That Award is applicable here.

The claim here does not support a sustaining Award.

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

Claims denied.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION**

**ATTEST: S. H. Schulty
Executive Secretary**

Dated at Chicago, Illinois this 2nd day of February, 1961.