

Award No. 11167

Docket No. CL-10847

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Phillip G. Sheridan, Referee

PARTIES TO DISPUTE:

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

TULSA UNION DEPOT COMPANY

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

(1) The Carrier violated the terms of the currently effective Agreement between the parties when it reduced the force in the passenger station and assigned routine clerical work of handling the selling of tickets, dissemination of information, and the checking of baggage to the Depot Ticket Agent, who is not covered by the Scope Rule of the Clerks' Agreement.

(2) E. E. Thomas now be allowed one day's pay at the rate of a Ticket Clerk for each date, July 8, 9, 10, 11, and 12, 1957.

(3) Robert Witchurch now be allowed one day's pay at the Ticket Clerk rate for each date, March 1, 3, 4, 6, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 22, 24, 25, 26, 27, 28, 29, 31, and April 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 14, 16, 17, 18, 21, 23, 24, 25, 26, 28, 29, 30, 1958.

EMPLOYEES' STATEMENT OF FACTS: The Tulsa Union Depot Company is a joint facility handling the passenger business of the St. Louis-San Francisco Railway Company the Atchinson, Topeka, and Santa Fe Railway Company, and the Missouri, Kansas and Texas Railway Company.

Prior to May 5, 1957, the force in the passenger station at the Tulsa Union Depot included a Depot Master and a Night Depot Master, whose primary duties were the overall supervision of the Tulsa Union Depot, and a Depot Ticket Agent, whose primary duties were to supervise the Ticket Office. The force also included a Chief Ticket Clerk, 7:30 A. M. to 4:00 P. M.; a Cashier-Ticket Clerk, 7:30 A. M. to 4:00 P. M.; one Ticket Clerk, 6:20 A. M. to 2:50 P. M.; one Ticket Clerk, 2:30 P. M. to 11 P. M.; one Ticket Clerk, 3:30 P. M. to 12:00 Midnight; one Ticket Clerk, 11:59 P. M. to 7:59 A. M.; one Information Clerk, 3:00 P. M. to 11:30 P. M.; one Depot Clerk, 4:30 A. M. to 1:30 P. M.; one Dockman, 5:45 A. M. to 1:45

comparison, Carrier's record show that the total passenger revenue handled through the Depot Company for the year 1957 amounted to \$469,693.17. A simple computation will show that the ticket office force July 1, 1957 equaled 53% of the force which this Carrier had January 1, 1946, whereas the amount of passenger business handled by this Carrier for the year 1957 equaled 40% of the business handled by this Carrier during the year 1946. Actually, the amount of business handled during the year 1957 was considerably less than 40% as the 1957 dollar figures of passenger business include several passenger fare rate increases made subsequent to 1946 as follows:

First Class fares increased 6.6% December 18, 1947; Coach fares increased 13.63% March 1, 1948; Coach fares and First Class fares increased 5% March 1, 1956; Coach fares and First Class fares increased 5% January 1, 1957 and, in addition, roundtrip fares were changed from 166 $\frac{2}{3}$ % of two one-way fares to 180% of two one-way fares, resulting in an approximate increase of 13% in the roundtrip fare.

It is clearly evident from the above figures that the Carrier has not reduced its ticket office force to correspond with the reduced amount of passenger business handled, and Carrier has in no way infringed upon the rights of any clerical employee in the ticket office in adjusting its clerical force to more nearly correspond with the amount of passenger business handled. The contentions of the Clerks' Organization in this dispute are the same as those presented to this Board in Third Division Award 7189, Referee Carter, and those contentions were denied by this Board in that award. Similar Findings were made by this Board in its Award 7329, Referee Coffey.

For the reasons fully set out herein, the Employees' claim is barred by the specific provisions of Article V, Paragraph 1(c), of the August 21, 1954 Agreement, and, additionally, is completely lacking in merit and agreement support, and the contentions of the Organization are completely lacking in proof or evidence of any kind. Carrier respectfully requests this Board to deny such claim in its entirety.

All data submitted in support of Carrier's position have been presented to the Employees or duly authorized representative thereof and made a part of the particular question in dispute.

(Exhibits not reproduced.)

OPINION OF BOARD: The Carrier reduced its forces at the Tulsa Depot on or about May 5, 1957.

The Organization alleges that the Carrier assigned the abolished work to persons not covered by the Agreement.

Voluminous correspondence was conducted by the parties expressing their respective positions.

The Carrier contends that the claims were not filed within the time limits prescribed by Article V of the August 1954 Agreement.

The Organization contends that the claims were timely filed and that the claim is a continuing one.

A thorough reading of the record and an examination of the Correspondence reveals that the claims submitted herein relate back to the Carrier's action of May 5, 1957. An illustration of this view is indicated in Carrier's Exhibit A-20 which is a letter from the General Chairman of the Organization to the Carrier's Director of Labor Relations.

"Further, in this case, the work performed by the Ticket Agent on the dates of these claims was never work which he had previously performed. It is true that the Ticket Agent has in the past handled certain specific information and tickets to a few business firms or individuals as an accommodation to those people; and so long as his work was confined to those specific cases, there was no complaint; but when upon the abolishment of two Ticket Clerk positions and an Information Clerk position in May of 1957 he took over and performed the duties as a regular Ticket Clerk, it constituted a violation of the Agreement. I, therefore, respectfully request that you arrange for payment of those claims previously filed."

Therefore, we conclude that the claim is not a continuous one, it is based upon a specific act which occurred on a specific date, namely May 5, 1957. A continuing liability might result, but this does not create a continuing claim.

Article V of August, 1957 Agreement prevails, the claim was not presented within 60 days of its occurrence.

See Awards 9686 and 10532.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

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 claim is barred.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 27th day of February 1963.