

Award No. 12977

Docket No. CL-13039

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Don Hamilton, Referee

PARTIES TO DISPUTE:

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

**PHILADELPHIA, BETHLEHEM AND NEW ENGLAND
RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5104) that:

(a) The Carrier violated the Agreement when, from November 23 to November 28, 1960, it suspended Claimants from their regularly assigned positions.

(b) Claimants, as shown in the Statement of Facts, shall be additionally compensated for work lost, as shown, as a result of the violation of the Agreement.

EMPLOYEES' STATEMENT OF FACTS:

1. On November 18, 1960 the Carrier posted Clerical Bulletin Number 786 addressed to "Outside Clerical Forces" and giving notice that all Interchange Clerks, Weighers, Yard Clerk-Weighers and Interchange Clerk-Weigher positions would be abolished effective Wednesday, November 23, 1960 at 11:00 P.M. It was further said that the "abolishments" were due to greatly reduced service requirements over the Thanksgiving Day weekend, that employees affected would be temporarily assigned in seniority order in accordance with service requirements, and that the subject matter of the bulletin was subject to change. A copy of Carrier's Clerical Bulletin Number 786 is attached hereto and identified as Employees' Exhibit A.

2. All the positions allegedly abolished were rebulletined under date of November 28, 1960 by Clerical Bulletins Numbers 787 through 796 and worked regularly from November 28 forward. A copy of Bulletin Number 787 is attached hereto and identified as Employees' Exhibit B. During the period between November 23 and November 28, 1960, and excluding rest days, there would have been a total of thirty-six workdays on the abolished positions. The Carrier filled the positions, collectively, for a total of sixteen man-days, leaving a total of twenty days' lost time as the subject of this claim, as follows:

Chairman, but established positions shall not be discontinued and new ones created under the same or different titles covering relatively the same class or grade of work, which shall have the effect of reducing the rate of pay or evading the application of these Rules.

(b) When positions are abolished, any remaining duties shall be re-assigned through conference in accordance with paragraph (a) of this Rule."

A mere reading of the Rule shows its inapplicability here.

Finally, the Local Chairman, in his initial claim letter, charges a violation of "various sections of Rule 15 - Seniority", without specifying them. The Carrier therefore answers the charge generally: The basic purpose of the Seniority Rule is to give employes the right to work according to seniority. Here the claim of the Brotherhood is on behalf of the 10 junior-most outside clerks whose assignments were abolished. It is, of course, obvious from the lack of claims on behalf of the senior clerks that they worked as much time as they would have worked had their assignments not been abolished, demonstrating how effectively the Carrier divided the reduced amount of work equitably among the senior employes. This certainly met the purpose of the Seniority Rule, and, the Carrier submits, is not inconsistent with any of the provisions of the Rule.

For all the reasons stated, it is the Carrier's position that the Brotherhood's claim is without merit and should be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: This case is the same in all material respects as in Award No. 12974.

We adopt the opinion therein as determinative of the issues in this case.

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 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 Agreement was violated.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois this 14th day of October 1964.

**CARRIER MEMBERS' DISSENT TO
AWARD 12977, DOCKET CL-13039**

We dissent to this award for the reasons previously stated in our Dissent to Award 12974.

**W. F. Euker
R. A. DeRossett
C. H. Manoogian
G. L. Naylor
W. M. Roberts**

**LABOR MEMBER'S ANSWER TO
CARRIER MEMBERS' DISSENT TO
AWARD 12977, DOCKET CL-13039**

Our answer to Carrier Members' Dissent to this Award is the same as that which we state in our Answer to Carrier Members' Dissent to Award 12974, Docket CL-12597.

D. E. Watkins
Labor Member