

Award No. 12982
Docket No. CL-12707

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

William H. Coburn, Referee

PARTIES TO DISPUTE:

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

**THE DENVER AND RIO GRANDE WESTERN
RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-4985) that:

(1) Carrier violated the terms of the current Agreement between the parties on June 17, 1960, when Mr. McKellar, Agent at Salt Lake City, issued instructions per his File B-72 abolishing the position of second Billing Clerk, assigning all the duties of this position to Chief Billing Clerk R. L. Allen, transferring all the duties of Mr. Allen to position of General Clerk held by Mr. K. O. Mayfield and changing the duties of other assignments to absorb the duties formerly performed by Mr. Mayfield.

(2) Mr. R. L. Allen shall now be compensated for an additional day's pay for each working day commencing June 17, 1960, and continuing for each day he is withheld from his original assignment.

(3) Mr. K. O. Mayfield shall now be compensated for an additional day's pay for each working day commencing June 17, 1960, and continuing for each day he is withheld from his original assignment.

EMPLOYES' STATEMENT OF FACTS: Under date of June 17, 1960, Mr. C. J. McKellar, Agent at Salt Lake City issued instructions under his File B-72 reading as follows:

"Due to the abolishment of the position of 2nd Billing Clerk it will be necessary to distribute work as follows effective 8:30 A. M. Tuesday, July 21, 1960.

Chief Bill Clerk (Mr. Allen) will handle all outbound billing and aid General Clerk (Mr. Mayfield) all possible on outbound revising and handle revising from 5:00 P. M. to 6:00 P. M.

General Clerk (Mr. Mayfield) will handle all outbound revising

other employes in that office. Most of the work was returned to the Chief Billing Clerk, which position performed the work prior to the establishment of position of Second Billing Clerk.

Claim No. 1 (CL-16-60) that General Clerk who performed some of the duties of the abolished position is entitled to an additional day's pay and claim No. 2 (CL-17-60) that the Chief Billing Clerk who also performed some of the duties of the abolished position is entitled to an additional day's pay have been denied by the Carrier.

POSITION OF CARRIER: In handling this case on the property, the Organization relied on Rules 3 (Seniority), 4 (Assignment, Promotion and Displacement) 10 (Bulletin Rule) 17 (Reduction in Force) 50 (Transfer of Rates from one Position to Another) 61 (Abolishing Established Position and Creating New Position) 65 (Classification of Employes and Definition of Work), and with respect thereto Carrier asserts that none of the rules cited by the Organization are involved. Rule 3—seniority was in manner involved; Rule 4—no assignment, promotion or displacement was made; Rule 10—no new position was created; Rule 17 was fully complied with. Proper notice was issued prior to abolishment of the position and force reduction was made under the provisions of this rule; Rule 50—there was no transfer of rates from one position to another; Rule 61—no position was discontinued and no new position was created under a different title; Rule 65—proper classification and a reasonable definition of the work to be done was made in each instance.

In addition to the foregoing, attached as Carrier's Exhibit A is Carrier's letter August 17, 1951, which was accepted by Organization's letter August 22, 1951, attached as Carrier's Exhibit B.

It will be noted that this settlement provides that the listing of principal duties is solely for the information of clerks bidding on vacancies and is not to be construed as covering all phases of work to be performed on a position

The Employes cited Award 7252, and a review of that award will develop that it does not involve a factual situation in any way comparable to that involved in the instant claim.

Carrier asserts that position of Second Billing Clerk was properly abolished and duties properly assigned to other employes under the Clerks' Agreement.

Claims must be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: Prior to June 17, 1960, the following positions existed in Carrier's freight office at Salt Lake City with assigned hours from 9:30 A. M. to 6:00 P. M. including a thirty-minute meal period:

Chief Bill Clerk held by Claimant Allen, rate \$19.50 per day, the principal duties of which were to handle rating and supervise out-bound bills.

General Clerk held by Claimant Mayfield, rate \$19.50 per day, the principal duties of which were to handle inbound revising and general duties as assigned.

Second Billing Clerk, rate \$18.79 per day, the principal duties of which were typing waybills, making transfer sheets, transfer billing, etc.

The work of revising, i.e., rating and extending, is the basis of the higher rate being paid on the positions of Chief Bill Clerk and General Clerk.

Effective June 17, 1960, Carrier abolished the position of Second Billing Clerk and reassigned the remaining work thereof as follows:

"Due to the abolishment of the position of 2nd Bill Clerk it will be necessary to distribute work as follows effective 8:30 A. M., Tuesday, June 21, 1960.

Chief Bill Clerk (Mr. Allen) will handle all outbound billing and aid General Clerk (Mr. Mayfield) all possible on outbound revising and handle revising from 5:00 P. M. to 6:00 P. M.

General Clerk (Mr. Mayfield) will handle all outbound revising in addition to present duties and discontinue the revising and making corrections on received LCL prepays.

Rate Clerk (Mr. Gill) will help General Clerk (Mr. Mayfield) all possible on revising of merchandise pouches in addition to present duties.

General Clerk (Mr. Palfreyman) will return to Freight Office by 1:00 P. M. daily and will help all possible on forwarded revising and inspection as necessary.

Chief Revising Clerk (Mr. Edmunds) will make all waybill correction on abstract as necessary in addition to present duties. Passing Clerk (Mrs. Schubert) will make all transfer freight bills in LCL pouches as necessary daily in forenoons in addition to present duties, and account (Mr. Durrant) will handle D&RGW advances doing so first thing in A. M. daily in addition to present duties.

Assistant Revising Clerk (Mr. Simmons) will handle received tonnage and received revenue figures formerly handled by Assistant Accountant in addition to present duties, B-72."

Concurrently therewith, Carrier abolished fifty per cent of the General Clerk's work by discontinuing the revising and making corrections on received LCL prepays.

Subsequent to these changes, both Claimants continued to perform "revising" work of rating and extending.

Under the foregoing facts, it appears the Employes' complaint is bottomed on the premise that new positions, requiring rebulletining, are established when a position is abolished and the duties thereof are distributed among those positions remaining. It is clear, of course, that under Rule 12 a unilateral change made by the Carrier in the rate of a specified position or in the seniority group classifications constitutes the creation of a new position but neither was alleged to have been done here. Unless there is a contract bar, it is settled that a Carrier has the right to abolish positions and rearrange the work thereof, particularly where, as here, the work remains the property of the class or craft of the position abolished. (Award 1315.)

The Agreement in evidence here contains no such bar. Accordingly, it cannot be held that the Agreement was violated.

The claim, therefore, will be denied.

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 not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 21st day of October 1964.