

Award No. 13479
Docket No. CL-13659

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Daniel Kornblum, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES
THE PENNSYLVANIA RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5216) that:

(a) The Carrier violated the Rules Agreement, effective May 1, 1942, except as amended, particularly Rule 3-C-2, when it abolished clerical position, Symbol No. G-66, incumbent A. F. Shoults, Symbol No. G-51, incumbent B. J. McCluskey, Symbol No. G-52, incumbent T. E. Maki, and Relief Position, incumbent Paul M. Goodiel, located at West Street Yards, Ashtabula, Ohio, Lake Region, effective November 19, 1960, November 18, 1960 and November 14, 1960, respectively.

(b) The positions should be restored in order to terminate this claim, each of the above named Claimants, Extra Clerk Donald C. Miller, and all other employees affected by the abolishment of the positions should be restored to their former status (including Vacations) and be compensated for any monetary loss sustained by working at a lower rate of pay; be compensated for any loss sustained under Rule 4-A-1 and Rule 4-C-1; be compensated in accordance with Rule 4-A-2 (a) and (b) for work performed on Holidays or for Holiday pay lost, or on the rest days of their former positions; be compensated in accordance with Rule 4-A-3 if their working days were reduced below the guarantee provided in this rule; be compensated in accordance with Rule 4-A-2 for all work performed in between the tour of duty of their former positions; be reimbursed for all expenses sustained in accordance with Rule 4-G-1 (b); that the total monetary loss sustained including expenses under these claims be ascertained jointly by the parties at time of settlement (Award 7287). (Docket 1044)

EMPLOYEES' STATEMENT OF FACTS: This dispute is between the Brotherhood and Steamship Clerks, Freight Handlers, Express and Station Employees as the representative of the class or craft of employees in which the Claimants in this case held positions and the Pennsylvania Railroad Company—hereinafter referred to as the Brotherhood and the Carrier, respectively.

There is in effect a Rules Agreement, effective May 1, 1942, except as amended, covering Clerical, Other Office, Station and Storehouse Employees between the Carrier and this Brotherhood which the Carrier has filed with the National Mediation Board in accordance with Section 5, Third (e), of the

plicable Agreement in the instant case and that the Claimants are not entitled to the compensation which they claim.

Therefore, the Carrier respectfully submits that your Honorable Board should deny the claim of the Employees in this matter.

(Exhibits not reproduced).

OPINION OF BOARD: In issue is a dispute under Rule 3-C-2 of the Clerks' Agreement; the proper assignment of work which remains after the abolishment of positions covered by that Agreement. There is no dispute as to the basic facts.

Four of the named Claimants were the incumbents of the four regular positions in question, which were abolished by the Carrier. These positions were under the jurisdiction of the Assistant Train Master at the Carrier's West Street Yards in Ashtabula, Ohio. They were divided into three daily tricks, seven days a week. Position symbol number G-66 occupied the first trick, positions symbol numbers 51 and 52 the second and third tricks respectively. The incumbent of the fourth position, that of Regular Relief Clerk, provided the relief on the rest days assigned to the three numbered ones.

On November 18 and 19, 1960, the Carrier abolished the three numbered positions. The Regular Relief position had been abolished a few days before. This left but one clerical position at the West Street Yards, that of symbol number G-82. This was a first trick position, five days a week, Monday through Friday. The daily work of this position was divided equally between the offices of the Assistant Train Master and the Supervisor-Track, four hours in each.

The principal work of the abolished positions was that of crew dispatching, i.e. calling and dispatching train and engine service employees. They also handled general orders and time cards, checked tracks and trains and prepared various reports. It is not denied that the work of the Carrier in Ashtabula, an iron ore port, is sharply curtailed between mid-November and April following the close of the navigation season on the Great Lakes. The regular yard crews usually numbering six in season, are then reduced to one crew working, but three days a week. Correspondingly, the principal task of the positions in question, that of crew dispatching, is substantially reduced in content.

The Carrier decided that these positions could be permanently abolished by re-assigning the crew dispatching work to clerks in Niles, Ohio, and assigning the small amount of remaining work which had still to be performed at the West Street Yards, Ashtabula, to the incumbent of position number G-82. It is not denied that the positions in Niles, Ohio to which the bulk of the work was assigned are covered by the Clerks' Agreement and are in the same seniority district as that of the abolished ones.

The Organization does not dispute the right of the Carrier to have abolished the positions in contention. Invoking Rule 3-C-2 (a) (1) of the Agreement, it maintains only that so long as there was a clerical position, namely G-82, left at that yard in Ashtabula, all the work which remained from the abolished positions had to be assigned to it. The relevant portion of the Rule provides:

"Rule 3-C-2. (a) When a position covered by this Agreement is abolished, the work previously assigned to such position which re-

mains to be performed will be assigned in accordance with the following:

"(1) To another position or other positions covered by this Agreement when such other position or positions remain in existence, at the location where the work of the abolished position is to be performed."

The Carrier contends that under the quoted Rule, the critical test is not the locus of the abolished positions or where the work was performed before its abolishment, but the location where the remaining work is to be performed. Thus, it emphasizes that so much of the remaining work that had still to be performed at the Ashtabula Yards was left there, whereas the crew dispatching work can and is being performed by clerks in the same seniority district in Niles.

A review of the long history of this Rule before the Board reveals that from time to time each of the parties has argued for disparate interpretations depending upon the expediency of the moment (e.g., compare the respective positions of the parties described in Award 10645 with those in Award 13178). In any event, the weight of recent authority supports the Carrier's position on the undisputed facts in this case; i.e., the work remaining from abolished positions may be properly assigned to covered positions in the same seniority district and situated in the location where that work is to be performed. See Award 13178 (Dorsey); see also, Awards 12108 (Seff), 12420 (Coburn), 12809 (Dolnick), 13061 (Engelstein).

The Board, therefore, denies the claim.

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 the Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 16th day of April 1965.