

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Harold M. Weston, Referee

PARTIES TO DISPUTE:

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

THE BALTIMORE AND OHIO RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5403) that:

(1) The Carrier violated the Clerks' Agreement on January 1, 1962, when it moved the work of the positions in the City Ticket Office at Cincinnati, Ohio, to the Cincinnati Union Terminal to be performed under contract, said positions having been abolished at the close of business the previous day, December 30, 1961, and

(2) In addition to all moneys earned, R. H. Keller, Ticket Clerk, shall now be paid \$537.00 per month or equal fractions thereof for January 1, 1962, and for each and every day thereafter until the work is restored to a position or positions under the scope of the Clerks' Agreement, and

(3) In addition to all moneys earned, F. W. Heck, Ticket Clerk, shall now be paid \$19.25 per day for January 1, 1962 and each and every day thereafter until the work is restored to a position or positions under the scope of the Clerks' Agreement.

EMPLOYEES' STATEMENT OF FACTS: Prior to January 1, 1962 the Baltimore and Ohio Railroad maintained a City Ticket Office in the Temple Bar Building at Cincinnati, Ohio. Complete service was rendered to that Carrier's patrons in this office. Among the duties of the employees in that office were the sale of passenger train tickets, pullman, sleeping and parlor car tickets, accepting requests for reservations of space accommodations and all other activities necessary to comply with such requests, the furnishing of information to patrons and prospective patrons, the usual services connected with tours, etc., and the making of the required reports. Immediately prior to December 31, 1961, the City Ticket Office staff consisted of a City Ticket Agent not covered by the Clerks' Agreement and an Assistant City Ticket Agent fully covered by the Clerks' Agreement. These positions were abolished and the office discontinued.

There also existed in Cincinnati, Ohio, prior to January 1, 1962, and there continues to exist, a railroad service facility, classified as a common

Without prejudice to any statement made hereinabove or petition contained therein, the Carrier desires to respond to the Employees' Notice of Intent covering the dispute in Case GL-5403.

CARRIER'S STATEMENT ON THE CASE: The Carrier submits that its argument as to fact is to be found in Carrier's Exhibit 1. There has been no "contracting out" of work in this case. There has been no work removed "to the Cincinnati Union Terminal to be performed under contract." This Carrier is one of the proprietary carriers in the Cincinnati Union Terminal. While the closing of the City Ticket Office did not constitute joint action with the Cincinnati Union Terminal Company, apart from this fact, this is no rule or interpretation thereof appearing in the Clerks' Agreement giving to employees represented thereby the exclusive right to sell tickets and this fact has been recognized by the Clerks' Organization on this property for many years. Passenger tickets have been sold in the Cincinnati Union Terminal for many years, without protest or objection from the Clerks' Organization.

When the City Ticket Office was closed as of December 31, 1961, the claimants in this case were permitted to exercise their full seniority and displacement rights. Neither Rule 1 nor any other rule appearing in the Clerks' Agreement act to support the instant claim. In a word, there is no merit to this claim in either Parts (1), (2) or (3).

Summarily put, this Carrier petitions this Division that it act to dismiss this claim in its entirety for the reason that the identical issue is now before the Section 13 Committee, or, in the alternative, deny the claim for want of merit.

(Exhibits not reproduced.)

OPINION OF BOARD: The claim is that Carrier breached the Clerks' Agreement when it moved the work of City Ticket Office positions at Cincinnati, Ohio, to the Cincinnati Union Terminal.

We are satisfied from our examination of the record that on February 25, 1963, some months before this claim was submitted to this Board, substantially the same dispute was submitted for determination to the Section 13 Committee established pursuant to the Washington Job Protection Agreement. That dispute is now being considered by the Section 13 Committee as Docket No. 106.

The Section 13 Committee and its attendant procedure have been set up by the voluntary agreement of the very Organization and Carrier that are involved in the present case. Under the circumstances, we must agree with Award 9388 that procedures accepted by the parties themselves for resolution of disputes of the type now in question must be respected. Considerations of comity make it desirable that we refrain from action in this matter.

In the light of these considerations, we have no alternative but to dismiss 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 this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the claim should be dismissed for the reasons mentioned in the Opinion.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 26th day of July 1965.