

Award No. 13918
Docket No. CL-14416

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Nathan Engelstein, Referee

PARTIES TO DISPUTE:

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

TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5422) that:

1. On or about August 1, 1962, the Carrier violated the provisions of the existing Agreement when it unilaterally, arbitrarily, and without agreement removed work from the Wiggins East Side Seniority District (District No. 34) and transferred same to the Central District (Seniority District No. 36) and the Madison District (Seniority District No. 38), and

2. That each and every employe whose position was nominally abolished, other employes at interest who in any way suffered wage loss or were adversely affected through the arbitrary action of the Carrier in disregarding their seniority rights and removing their work to another seniority district, and denying them the right to follow such work, be compensated for any and all wage loss or adverse effect retroactive to the date on which the violation occurred. Also, any and all employes holding seniority on Master Rosters Nos. 1 and 2, who were or may be adversely affected by the Carrier's action. Claims to continue until correction is made.

NOTE: Reparation due employes to be determined by joint check of Carrier's payrolls and/or other records.

EMPLOYEES' STATEMENT OF FACTS: On June 15, 1962, notice was received from the Manager of Labor Relations to the effect that Wiggins No. 2 Yard at East St. Louis, Illinois would be closed effective August 1, 1962. This Yard was the principal yard in Seniority District No. 34, and the majority of the employes in the District were located at this point. (See Employees' Exhibit A.)

Conferences were held with the Manager of Labor Relations on June 19, July 19, July 25, and July 27, 1962, in an effort to reach an Agreement

OPINION OF BOARD: This dispute concerns the diversion of work from one seniority district to another. On June 15, 1962, the Manager of Labor Relations notified the General Chairman that Wiggins No. 2 Yard, located in East St. Louis, Illinois, in Seniority District No. 34, would be closed effective August 1, 1962.

Four conferences were held between June 19 and July 22, 1962, concerning the reduction in forces in Seniority District No. 34, the creation of additional positions in Seniority Districts Nos. 36 and 38 to which some of the employes of Seniority District No. 34 were to be assigned, and the question of whether a transfer of work was involved. Although no agreement was reached, Carrier indicated that it would work out a plan for preferential treatment for the Wiggins men on the new jobs to be bulletined in Seniority Districts Nos. 36 and 38. Accordingly, in the bulletins advertising the positions at Central District Yard (C. D. Yard) in Seniority District No. 36, and at Madison in Seniority District No. 38, Carrier permitted these employes bidding rights.

After the changes were made, the Brotherhood filed claims in behalf of those whom it believed were adversely affected as a result of the closing of Wiggins No. 2 Yard and the alleged transfer of work from one seniority district to another. These claims were declined on the grounds that they were vague and indefinite, and that there was no violation of the Agreement, inasmuch as no transfer of work took place. The Brotherhood then modified its claim with clarifications that made the list of Claimants less broad.

The Brotherhood argues that there was removal of work from one seniority district to another without agreement in violation of Rule 5 which established the seniority districts. Carrier, however, takes the position that there was a reduction in force at Wiggins No. 2 Yard because of a decline in the volume of business, rather than a transfer of work. It maintains that Wiggins District (Seniority No. 34) remained in effect, and since the district was not changed, its action was not violative of Rule 5. Moreover, it emphasizes its inherent right to have any required work performed at any location. Consequently, it argues it was within its rights in creating eight new positions at C. D. and Madison Yards to perform work which could not be absorbed by forces at these locations.

The claim has enough specificity to be considered on its merits. Numerous awards have resolved cases involving the elimination of some work in one seniority district and the performance of additional work at another seniority district in which rules similar to those at issue in this dispute were involved. A number of these, including Awards 4667, 6938, and 9193, have held that a transfer of work entailed a change in seniority districts, and, therefore, was improper without negotiation. It is significant, however, that the last named award which Brotherhood emphasizes has been reviewed by the Federal District Court in West Virginia in the case of Hanson vs. The Chesapeake Railroad 263 Fed. Supp. 56 (1964) held that there was no violation of the Agreement. The Court ruled that whether the change was a transfer of work or not since no change in seniority district was made, there was no need to negotiate with Brotherhood. In addition, other Awards such as Nos. 6655, 7420 and 9633, and Special Board of Adjustment No. 564, Award No. 4 previous to the Federal decision have denied similar claims.

As in the Federal Court decision, we find that the seniority districts under consideration in the instant dispute remained intact. Although Carrier

routed traffic through C. D. and Madison Seniority Districts in the interest of efficiency, this diversion of work without change in seniority districts did not require agreement under Rule 5.

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 of the parties 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 26th day of October 1965.