Award No. 14060
Docket No. CL-14907

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John H. Dorsey, Referee

PARTIES TO DISPUTE:

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

THE BELT RAILWAY COMPANY OF CHICAGO

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5551) that:

(1) The Carrier violated rules of the Clerks' Agreement when on or about January 17, 1963 it arbitrarily removed work in connection with range oil deliveries, out from under the scope of the Agreement and contracted same out to the Sweeney Oil Company and concurrently therewith abolished the position of Reliefman to which these duties had been attached;

(2) Carrier shall be directed by appropriate order to restore the work to employes under the provisions of the Clerks' Agreement;

(3) Chauffeur Rico and Helpers J. Gierhahn, A. Stynski and F. Libician, shall be allowed pay at their respective overtime rates of the total man-hours consumed by the employes of the Sweeney Oil Company in performing the work referred to in part (1) of this claim, as follows:

Chauffeur Rico	8 hours	January 24, 1963
Chauffeur Rico	8 hours	February 7, 1963
Chauffeur Rico	7 hours	February 21, 1963
Chauffeur Rico	1 hour	February 25, 1963
Chauffeur Rico	8 hours	March 6, 1963
Chauffeur Rico	8 hours	March 22, 1963
Chauffeur Rico	8 hours	April 24, 1963
Helper Gierhahn	8 hours	January 24, 1963
Helper Gierhahn	8 hours	February 7, 1963
Helper Gierhahn	7 hours	February 21, 1963
Helper Gierhahn	1 hour	February 25, 1963
Helper Stynski	8 hours	March 6, 1963
Helper Libician	8 hours	March 22, 1963
Helper Libician	8 hours	April 24, 1963

and dispensed into storage tanks at each shanty or office in the West Yard as required.

For many years prior to January 24, 1963, the Sweeney Oil Company and the State Fuel Company have been delivering and dispensing fuel oil into similar tanks at various shanties and offices at at least twelve other locations on the railroad. To avoid the double handling of the oil for the West Yard locations the Carrier decided to have the Oil Company deliver the heating oil direct to the West Yard instead of to the storage tank in the Storehouse building.

POSITION OF CARRIER: There is nothing in the Clerks' Agreement that requires the Carrier to limit the receipt of materials it purchases from outside concerns at only one location, i.e., the Store Department Building at Clearing. Various items of materials purchased have been delivered to the Belt Railway at locations other than the Storehouse Building at Clearing ever since the Belt Railway was organized in 1915.

The Carrier recognizes its obligation to use employes of the store department to make distribution of its materials after they have been delivered at the Storehouse, but most emphatically denies that by agreement or practice it has ever been deprived of the right to decide the location at which it will receive its materials purchased from outside concerns.

The Carrier denies that it abolished any position covered by the Clerks' Agreement concurrently with the change made on January 25, 1964, which had any relation to the work subject to this claim.

The claimants named were on duty and under pay at the time the deliveries of oil were made on the claim dates.

As indicated, oil deliveries were made to various locations in the same manner as is now complained of. The claimants did not establish an exclusive right to it.

The work on which the claim is based, handling oil drums from the Storehouse to the West Yard, was not in existence on the claim dates. This is true in this instance as it was in many others where changes in methods and procedures were involved.

When an oil company makes a delivery from its plant to a location on the Belt Railway, it is not substituting its service in place of a service previously performed by a Belt employe under completely different circumstances.

When an industry on the Belt Railway decides to use motor truck service instead of railroad service, the work formerly performed by the railroad employes no longer exists. That is the industry's right to decide the same as it is the railroad's right to decide the point and location at which it will receive its materials purchased from various sources.

We repeat: there is nothing in the scope rule that limits the receipt of materials at one location on the railroad, nor have the employes denied the fact that materials have been delivered to various locations prior to and ever since an agreement with them has been in effect on the Belt Railway.

OPINION OF BOARD: For some years Carrier had supplier deliver range oil into a storage tank at Clearing, Illinois. Looking at the facts, as

they most favor Petitioner, the oil was thereafter taken from the storage tank, placed in drums, and delivered by employes covered by the Agreement to shanties and offices on the property having need for it. Then, on or about January 17, 1963, Carrier had the supplier deliver the oil directly to the shanties and offices; thus, it eliminated the need for handling by Stores Department employes.

Petitioner contends that since the delivery from the oil tank to the shanties and offices had been customarily performed by the Stores Department employes, it was work reserved to them; therefore, the arrangement to have the supplier deliver the oil directly to the place of use was a contracting out of work, in violation of the Agreement. To this Carrier responds that there is nothing in the Agreement which impairs its management prerogative to specify the place of receipt, on its property, of supplies purchased from outside sources.

In Award No. 12358, we held that "It is axiomatic that all prerogatives inherent in management, except to the extent circumscribed by law or contract, remain vested in a carrier." We find no such circumscriptions in the instant case. The mere performance of certain work for a period of time by a certain class of employes does not impair Carrier's right to eliminate the need for the work. Impairment of the right, if it exists, can be found only in the provisions of the Agreement. We find no impairment by agreement. We will deny 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 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 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 22nd day of December 1965.