

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Levi M. Hall, Referee

PARTIES TO DISPUTE:

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

CENTRAL OF GEORGIA RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5621) that:

(1) The Carrier violated and continues to violate the rules of the Clerks' Agreement effective December 1, 1956, as amended, when without conference or agreement it arbitrarily and unilaterally issued instructions on or about April 18, 1963 to the effect that Yard Clerks at Columbus, Georgia Yard Office would discontinue making a check list of cars being handled by Train No. 89 (C&R) of the Columbus Division and thereafter required each Switch Engine Foreman to prepare his own lists.

(2) Yard Clerk H. E. Harvey, Columbus, Georgia Yard Office shall now be paid for one three (3) hour call each on April 18, 19, 22, 23, 25, 26 and 28 and May 2, 3, 6, 7, 8, 17, 22, 24, and June 3 and 11, 1963 and for each and every instance thereafter that Yard Switch Engine Foremen prepared their own lists for Train 89 (C&R), Columbus Division; and,

(3) The successor(s), if any, of Yard Clerk H. E. Harvey shall be compensated in like manner.

EMPLOYEES' STATEMENT OF FACTS: On April 18, 1963 a representative of Mr. H. W. Waters, now Vice President-Operations, came to Columbus, Georgia and made a general survey concerning the clerical work in the Columbus, Georgia Yard Office. The suggestions made by this representative are the subject of a letter to the General Chairman from the employees at Columbus. This letter, together with copies of the lists which the Yard Clerks had been performing for approximately twenty-five (25) years is hereto attached and identified as Employees' Exhibits Nos. 1 and 1-A, respectively.

Beginning April 18 and continuing through April 28, 1963, Yard Clerk H. E. Harvey, who had been performing this work for a great number of

And there are numerous awards on this established principle, including those specifically cited in the above quoted awards.

The Carrier does not for one minute infer that this ridiculous claim has any semblance of merit, because it does **not**. We simply cite the foregoing awards to show that regardless of the merits or demerits of the claim, it cannot be sustained on the basis demanded. **There is no penalty rule in the Agreement here.**

CONCLUSION

Carrier emphatically denies every statement, contention and implication in each and every letter written by the Brotherhood in connection with this dispute, except such as have been expressly admitted by the Carrier. Carrier denies that there has been any violation whatsoever of the Clerks' Agreement. This absurd and absolutely baseless claim should be denied in its entirety.

OPINION OF BOARD: It is the contention of the Claimant that the Carrier, unilaterally and without any previous notice to the Petitioner, on April 18, 1963, issued instructions that the Yard Clerks at Columbus, Georgia Yard Office would discontinue making a check list of cars being handled by Train No. 89 (C&R) of the Columbus Division and thereafter required each Switch Engine Foreman to prepare his own lists; that the work of preparing the list for Train 89 was performed on the third shift of every day except Sunday and that the Yard Clerk had been preparing these lists for the past twenty-five years, though it was conceded by Petitioner that Train 89 was the only train at that yard that the Yard Clerk had got a list for; that the conduct of the Carrier in eliminating that work and transferring it to the Switch Engine Foreman was in violation of Rule 1 — the Scope Rule, Rule 16, concerned with the procedure when positions were abandoned or there was a reduction in forces, and Rule 23 involving Rulings.

The position of the Carrier can best be demonstrated by the recital of a certain portion of a letter written by the Superintendent to the General Chairman, as follows:

"For your further information, the work performed by yard clerks has not been eliminated. The yard clerks book and check the C&R tracks for Train No. 89 in the usual manner as they do for any other train departing from Columbus Yard. The only thing that has been eliminated is the yard clerk preparing a list and furnishing the switch engine foremen to build 89's train by. We do not deem this list necessary, as other trains are built and operated from Columbus Yard without a yard clerk preparing and furnishing switch engine foreman a list by which to build these trains. The fact is that on numerous occasions in the past, Train No. 89 has been built by the foreman before the yard clerk prepared and furnished him a list of the cars. The clerk's preparation of the list was a waste of time and effort, under the facts."

Rule 16 cannot possibly apply as it appears conclusively from the Record that there was neither any abandonment of a Yard Clerk's position nor was there any reduction of forces.

We are then concerned with the position of the Carrier that as all other trains were built and operated from the Columbus Yard without a Yard

Clerk preparing and furnishing a Switch Engine Foreman a list by which to build those trains, the work of a yard Clerk in preparing and furnishing a list for Train 89 was useless and unnecessary and therefore it should be eliminated.

In Award 12419 (Coburn) we find the following pronouncement:

"At this late stage in the development of railroad 'case law,' there should be no question that Carrier management is free to determine the way in which the work and operations are to be performed and conducted in the interests of economy and efficiency except insofar as that freedom may be limited by law or agreements, with the representatives of its employees. (Awards 5803, 4799, 6967 are typical)."

See also Awards 13032 and 13099 (Hall).

Carrier has completely denied that after the elimination of this work Carrier required each Switch Engine Foreman to prepare his own lists as charged by the Petitioner. The Petitioner having made this assertion has the burden of producing evidence to prove it. The Petitioner has failed to produce any evidence whatsoever that the work performed by the Yard Clerk in making up the list for the Switch Engine Foreman is now being done by anyone.

See Award 14087 (Coburn).

For the foregoing reasons the Board is convinced that the Claim should 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 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 Agreement has not been violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 28th day of February 1966.