

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Arthur Stark, Referee

PARTIES TO DISPUTE:

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

ILLINOIS CENTRAL RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5633) that:

(a) Carrier violated Rules of the Clerks' Agreement at Matteson, Illinois, when on October 3, 1962, it assigned an employe subject to the terms of the Telegraphers' Agreement to assist the Agent in the performance of his duties each Wednesday, Thursday and Friday of each week.

(b) Clerk Floyd Windal be compensated a day's pay at penalty rate, \$30.30 per day, for October 3, 4 and 5, 1962, and for each subsequent Wednesday, Thursday and Friday; if it is determined that Windal is unavailable, then Clerk S. L. Crocker be compensated a day's pay at penalty rate, \$30.30 per day for each Wednesday and Thursday and Clerk D. E. Woolever be compensated a day's pay at penalty rate, \$30.30 per day, for each Friday until the dispute is resolved.

EMPLOYEES' STATEMENT OF FACTS: The Illinois Central Railroad Company maintains an agency at Matteson, Illinois, which is a suburb of Chicago, Illinois. The EJ&E and NYC railroads pass through Matteson and have interchange facilities with the Illinois Central at that point. Also, the Illinois Central maintains one team track for its patron's use and performs switching service for one industry, namely the United States Gypsum Company. Additionally, Matteson is a suburban passenger station, serving only the passengers who ride the Illinois Central Suburban Electric trains. No less than carload freight is handled at the station and no train order or telegraphic wire duties are performed by any employe.

Many years ago Matteson was one of Carrier's major stations. June 23, 1922, the date on which the Clerks' Agreement became effective, ten clerical positions existed at Matteson. October 19, 1923, the United States Railroad Labor Board, rendered its decision on a dispute captioned in part as:

tends it is required by its contract with the Telegraphers to assign ticket selling to a telegrapher. The ebb and flow principle does not apply because the work involved is commuter ticket selling, which belongs exclusively to telegraphers on the Chicago commuter line. The job in dispute is not one rightfully belonging to clerks. There is only one issue: DO CLERKS HAVE A RIGHT TO THE TICKET SALES POSITION?

The company will prove the job was properly filled by a telegrapher. It will show further that even if the union were to prove that a clerk should have been assigned to the ticket job, the claimants would not have been used. They were employed on other assignments and would not have been called at the overtime rate as claimed. Since the claimants suffered no loss, no money would be due.

III. CARRIER'S STATEMENT OF FACTS: Clerks have not been employed on the first shift at Matteson since December, 1960. The abolishment of clerical assignments was caused by the combination of a decrease in business and a change in operations. Freight business in December, 1960 was 53 per cent below December, 1959. Most of the freight business at Matteson is interchange work which requires that the agent be out of the office a good part of his day. In the main, the paper work performed by the agent is incidental to his duties as agent. The remainder is not work belonging exclusively to clerks. Presently, there is not enough clerical work performed on the first shift to support a clerk. Commuter ticket sales however, are, at times, heavy during the early part of the week. Since the company's need was for a ticket seller and clerks do not have a right to sell commuter tickets, the company assigned a telegrapher to sell tickets. The agent continued to perform his regular duties. The ticket seller did not perform any clerical work. The bulletins advertising the position appear as Management's Exhibit A.

The union filed claim contending clerks have a right to sell tickets. The company denied the claims because, as we will show, the union's argument and the claims are not valid. The pertinent correspondence is introduced as Management's Exhibit B.

(Exhibits not reproduced.)

OPINION OF BOARD: This case concerns events at Matteson, Illinois which followed those described in Award 14302. After November 1, 1961 the force reverted to one Agent (his hours were changed to 6:30 A. M. - 2:30 P. M.) and one Clerk (his hours became 5:00 P. M. to 1:00 A. M.). On August 9, 1962 Carrier's Chief Dispatcher advised its Superintendent that "... both the freight and passenger business at Matteson is steadily on the increase and in order to give the agent a little help with his freight work I would like to secure authority for a ticket clerk at Matteson for three days each week until further notice..." Permission was granted and, effective October 3, 1962, a Telegrapher-Clerk (under the Telegraphers' Agreement) was assigned to Matteson three days a week, initially on Wednesday through Friday, later on Monday through Wednesday. (This Telegrapher-Clerk worked the other two days each week at another station.) Thereafter, the Telegrapher-Clerk performed all ticket selling work at Matteson on the three days a week in question and the Agent performed all necessary freight duties.

Petitioner claims, as it did in the companion case, that Carrier should have appointed a clerk for the three days a week in question and, consequently,

its use of a Telegrapher-Clerk constituted an Agreement violation. Carrier affirms, as before, that the increased ticket selling work created the need for additional help and, accordingly, a Telegrapher-Clerk was appropriately assigned.

In our judgment the reasoning applied to the facts in Award 14302 applies equally here. In a word, when the volume of work at Matteson became too much for one agent, Carrier was obligated (on the basis of the history of assignments) to revert to the pre-December 1960 assignment arrangement before adding any telegrapher personnel. As for part (b) of the Claim, the record shows that no extra clerks were available, there are no other Claimants, and Windal was the senior eligible clerk not on duty. Had it not been for the improper assignment of another employee, Windal (or one of the other named Claimants) would have served at the overtime rate for three days each week, commencing October 3, 1962.

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 was violated

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 7th day of April 1966.