



Award No. 15449

Docket No. CL-15786

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**

SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5786) that:

(a) The Carrier violated the provisions of the Clerks' Agreement and deprived the employees involved of a portion of the rights which accrue to them with the accumulation of seniority when it did unilaterally, effective November 15, 1963, abolish 75 Rate Clerk positions in the Rate Section of the Freight Accounting Department, the occupants of which were assigned distinct and accurately defined duties; and re-established 73 Rate Clerk positions with one rate of pay and identical preponderating duties.

(b) The Carrier shall now be required to correctly describe by appropriate bulletin the applicable preponderating duties of each of the 73 Rate Clerk positions as required by our Agreement Rules.

EMPLOYEES' STATEMENT OF FACTS: This dispute is between the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees as a representative of the class or craft of employees in which the claimants in this case hold position and the Southern Railway Company.

The Carrier did, in the Office of Director, Revenue Accounting, (Freight Accounting), Atlanta, Georgia, on November 4, 1963, effective November 15, 1963, abolish 75 Rate Clerk positions (Employees' Exhibit A). The occupants of these 75 positions were assigned to distinct and accurately defined Rate Clerk duties. Examples of some of these preponderating duties are listed under Vacancy Bulletins No. 74 (Employees' Exhibit B); No. 75 (Employees' Exhibit C); No. 98 (Employees' Exhibit D); and No. 119 (Employees' Exhibit E). The Carrier did, in this same office, on this same date, November 4, 1963 (Employees' Exhibit F) readvertise 73 Rate Clerk positions with identical rates of pay and identical preponderating duties.

Due to the Carrier's unilateral action, Chairman Protective Committee, Mr. E. E. Yancey, filed claim accordingly on November 9, 1963 (Employees' Exhibit G).

"RULE 40.
DISCIPLINE AND GRIEVANCES
(Revised, effective October 1, 1938)

* * * * *

(b) Employees feeling an injustice has been done them, or having a grievance, may always submit their case to their superior officer for consideration and review, and shall have the privilege of appealing to the next ranking officer, provided such appeal is made in writing within thirty (30) days after the reviewing officer has rendered his decision."

"RULE 46.
PRESERVATION OF RATES AND EMPLOYMENT

* * * * *

(e) (Effective June 1, 1921.) Except as otherwise provided in these rules, established positions shall not be discontinued and new ones created under a different title covering relatively the same class of work for the purpose of reducing the rate of pay or evading the application of these rules." (Emphasis ours.)

OPINION OF BOARD: The claim submitted on the property under date of November 9, 1963, states:

"Claim and grievance is filed for and in behalf of seventy-five (75) Rate Clerks in the Rate Department, Revenue Accounting, account of their positions being abolished and recreated at the same rate of pay which is \$22.75 per day, with the same qualifications and duties. Claim is filed for the difference of \$22.75 per day and \$22.99, which is the highest rate of pay."

and the final paragraph:

"Please advise when claim will be paid and the seventy-five (75) Rate Clerks restored to their former status, or your reason for declining at your earliest possible convenience." (Emphasis ours.)

This was the claim appealed to and denied by Carrier's highest officer on April 2, 1964.

The proper and only claim that may be submitted to invoke this Board's jurisdiction is the one which was submitted on appeal to Carrier's highest officer.

The claim submitted to this Board is in fatal variance with the November 9, 1963 claim processed on the property in that it abandons the demand for monetary damages and initially prays for relief as follows:

"(b) The Carrier shall now be required to correctly describe by appropriate bulletin the applicable preponderating duties of each of the 73 Rate Clerk positions as required by our Agreement Rules."

We, therefore, are compelled to dismiss the claim presented to this Board.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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 submitted to the Board is not the claim processed on the property and therefore it must be dismissed.

AWARD

Claim dismissed.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION**

**ATTEST: S. H. Schulty
Executive Secretary**

Dated at Chicago, Illinois, this 31st day of March 1967.