

Award No. 15679  
Docket No. CL-15670

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**(Supplemental)**

Nathan Engelstein, Referee

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**PARTIES TO DISPUTE:**

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

**CENTRAL OF GEORGIA RAILWAY COMPANY**

**STATEMENT OF CLAIM:** Claim of the System Committee of the Brotherhood (GL-5771) that:

(1) The Carrier violated and continues to violate the rules of the Clerks' Agreement effective December 1, 1956, except as amended, when without conference or agreement it arbitrarily and unilaterally abolished all positions in the Freight Traffic Department-General Offices at Savannah, Georgia; in all on-line and all off-line Freight Traffic Offices; and the Passenger Traffic Department at Savannah, Georgia, on or about October 3, 1964, and transferred all of the work attached to those positions to the Southern Railway Company; and

(2) All of these Clerks in the General Offices at Savannah, Georgia, namely: O. B. Shearouse, K. I. Gray, E. L. Jaudon, B. G. Tyson, O. E. Shearouse, Jr., R. E. Matthews, J. F. Tanner, J. M. McDonough, V. M. King, W. J. Crapps, and A. Barrett; and all of the Clerks in the off-line Freight Traffic Offices, namely: T. J. Standridge and E. R. West at Albany, Georgia; M. E. Morris, G. D. Gaston and W. H. Moats at Atlanta, Georgia; E. W. Morris at Augusta, Georgia; J. L. Andrews and G. J. Roberts at Birmingham, Alabama; R. L. Allen at Chattanooga, Tennessee; R. A. Hack and R. M. Was at Chicago, Illinois; G. B. Butler at Cincinnati, Ohio; B. G. Hood at Cleveland, Ohio, W. M. Greenwood and J. L. Brantley at Columbus, Georgia; R. N. Murray at Dallas, Texas; T. K. Clancy at Detroit, Michigan; R. G. Kramer at Jacksonville, Florida; A. C. Brennan at Kansas City, Missouri; E. Hammond at Louisville, Kentucky; M. G. Bryant, M. N. Drinkard and Mildred S. Williamson at Macon, Georgia; B. U. Buie at Miami, Florida; V. H. Bykowski at Milwaukee, Wisconsin; J. E. Ells at Minneapolis, Minnesota; P. S. Jones, Jr. at Montgomery, Alabama; Lori Edith Catt at New Orleans, Louisiana; G. E. Geyer and Anthony L. Grilli at New York, New York; Julia Mae Smart at Memphis, Tennessee; Ernest G. Dodd at Orlando, Florida; A. Aemissegger at Philadel-

phia, Pennsylvania; W. E. Turner at Richmond, Virginia; J. R. Odom at Rome, Georgia; R. B. Lowery at St. Louis, Missouri; M. C. Hannan at San Francisco, California; K. S. Donohue at Savannah, Georgia; W. F. Hamm at Tampa, Florida; L. N. Griffin at Washington, D. C.; D. E. Brantley and R. H. Lee in the Passenger Traffic Department at Savannah, Georgia; and/or the person[s] who may have been working on their positions on temporary basis, shall be compensated for all salary losses sustained from October 3, 1964, or the date their positions were abolished, and have all other rights restored which are contemplated by the Clerks' Agreement; this claim to remain in effect until all work and/or positions are restored to Central of Georgia Clerks' performance; and,

(3) All of those Clerks in the Freight Traffic Department and the Passenger Traffic Department who have been displaced as a result of the action shall likewise be compensated in full for all wage losses and have all other rights restored to them in the same manner; and,

(4) All of the employees affected shall, if the work remains transferred to the Southern Railway Company, have their seniority "dovetailed" in such manner that they shall not lose any seniority rights as result thereof; and,

(5) All other conditions attached to the Clerks' Agreement of December 1, 1956, except as amended, shall apply to these Clerks and/or their successor[s]; and,

(6) The records of the Carrier shall be checked to determine in complete detail all of the foregoing information.

**EMPLOYEES' STATEMENT OF FACTS:** Effective October 3, 1964, Bulletins identified as Employees' Exhibits Nos. 1, 2, 3, 4, 5, 6 and 7, were issued by Messrs. W. Mason King and W. R. Wilson, Vice President-Sales, Southern Railway Company, Washington, D. C., and Vice President-Traffic, Central of Georgia Railway Company, Savannah, Georgia, copies of which are hereto attached as evidence and all of the work which was attached to those positions was transferred to the Southern Railway Clerks' performance. Like Bulletins were issued at every other Freight Traffic Agency, we understand, where the Central of Georgia Railway Company had theretofore maintained Freight Traffic Offices. Also attached are copies of Seniority Rosters dated January 1, 1964 for the Freight Traffic Department and the Passenger Traffic Department. Employees' Exhibits Nos. 8 and 9.

Since, as was the case here, entire other Departments, such as the Accounting Department, and, in fact, almost every other major department on the System, has been abolished and there was no one else to whom to appeal, we addressed this claim to Director of Personnel Lawson G. Tolleson under date of October 8, 1964. Employees' Exhibit No. 1-A. Copy of this claim was sent to each Clerk on the entire System where employees had been adversely affected in order that we might ascertain, wherever possible, the extent of the violation of the Agreement. We subsequently found we were in error only as to Albany, Georgia, where only one (1) position, that of Chief Clerk, had been abolished and were entirely in error as to Columbus, Georgia — otherwise, our claim was entirely accurate and comprehensive in coverage.

**OPINION OF BOARD:** This claim arose when on or about October 3, 1964, the Central of Georgia Railway Company abolished all of the positions in the Freight Traffic Department-General Offices at Savannah, Georgia, Freight Traffic Offices, and the Passenger Traffic Department at Savannah, Georgia, and transferred the work of these positions to the Southern Railway Company, which acquired the Central of Georgia Railway Company.

The Brotherhood makes claim that the Central of Georgia Railway Company violated Rules 1, 2, 4, 5, 6, 15, 16, 21, 23, 32, and 59 of the Agreement when it abolished these positions and transferred the work to another Carrier.

Carrier takes the position that this Board does not have jurisdiction. Since the Interstate Commerce Commission prescribed conditions for the protection of employees who might be adversely affected by the acquisition of control by the Southern Railway Company, it maintains that this Board does not have the authority to set aside or modify the orders of the Interstate Commerce Commission. In numerous other claims of a similar nature which were filed before this Board by other collective bargaining representatives of employees of Central of Georgia Railway Company, Carrier also as in the instant case argued that this Board lacked jurisdiction. This contention was rejected. For the reason cited in Awards 15028, 15087 and 15460, we hold that this dispute is properly before this Board.

Inasmuch as the record shows that the positions in question were abolished and the work transferred to the Southern Railway Company without negotiation and agreement by the parties, we hold that Carrier violated the Agreement.

Claim is sustained only in respect to allowance of compensation in accordance with the make whole theory followed in Awards 15028, 15460 and 15477.

**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 Agreement was violated.

#### AWARD

Claim sustained in accordance with above Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of THIRD DIVISION

ATTEST: S. H. Schulty  
Executive Secretary

Dated at Chicago, Illinois, this 23rd day of June 1967.

**CARRIER MEMBERS' DISSENT TO  
AWARD NO. 15679, DOCKET CL-15670  
AWARD NO. 15680, DOCKET CL-15704  
AWARD NO. 15681, DOCKET CL-15705  
AWARD NO. 15682, DOCKET CL-15706  
AWARD NO. 15683, DOCKET CL-15707  
AWARD NO. 15684, DOCKET CL-15859  
(Referee Engelstein)**

The Carrier Members respectfully dissent from these awards in general, and in particular from so much of the awards as is concerned with the majority's assumption of jurisdiction. The majority, when rendering the awards, based this jurisdictional assumption upon the reasoning in Awards Nos. 15028, 15087 and 15460. Such a basis is not well founded.

In Award 15460, Referee Ives based his conclusion that this Board had jurisdiction of a related but unsimilar matter solely upon the prior decisions forming Awards 15028 and 15087. The tone of the opinion rendered by Referee Ives is one of uncertainty, and the opinion all but invites further litigation. The Carrier Members filed a dissent to that award.

Dissents were also filed in Awards 15028 and 15087. Each of those dissents dealt with the issue of jurisdictional assumption. While it is not the purpose of this dissent to consolidate the dissents which were filed in these two instances, so much of each dissent as attacks the exercise of this Board's jurisdiction is hereby adopted by reference for the purpose of explaining why these decisions are so clearly incorrect as to be termed "palpably in error."

**R. A. DeRossett  
W. B. Jones  
C. H. Manoogian  
J. R. Mathieu  
W. M. Roberts**

**LABOR MEMBER'S ANSWER TO CARRIER  
MEMBERS' DISSENT TO  
AWARD NO. 15679, DOCKET CL-15670  
AWARD NO. 15680, DOCKET CL-15704  
AWARD NO. 15681, DOCKET CL-15705  
AWARD NO. 15682, DOCKET CL-15706  
AWARD NO. 15683, DOCKET CL-15707  
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(Referee Engelstein)**

The Carrier Members' dissent with respect to jurisdiction is certainly unsound inasmuch as these were disputes growing out of grievances or out of the interpretation or application of Agreements covering rates of pay, rules, or working conditions.

If there is a deficiency in the Awards it arises from the adoption of other Awards as a remedy herein which quite possibly could result in confusion, necessitating clarification. Vagueness, which invites further argument, does not serve the purpose of furnishing prompt and orderly settlement of such disputes.

**D. E. Watkins**  
Labor Member  
8-18-67