



Award No. 15879

Docket No. CL-14665

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Nicholas H. Zumas, Referee

PARTIES TO DISPUTE:

DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY

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

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees that:

(1) The Carrier violated the Clerks' agreement on account of Iron Range Division Stores Department employees displacing Missabe Division Stores employees.

(2) The Carrier shall compensate the following stated employees 8 hours' pay on the dates listed hereinbelow:

Mrs. Marion Silverness — May 13, 14, 15, 16, 17, 20, 21,
22, 23, 24, 27, 28, 29, 30,
and 31, 1963.

Total: 120 hours

Mr. Henry Lord — May 2, 3, 4, 6, 7, 8, 9, 10, 13,
14, 15, 16, 17, 21, 22, 23, 24,
25, 27, 28, 29, 30 and 31, 1963.

Total: 184 hours

Mr. Ray K. Jackson — May 2, 4, 6, 7, 8, 10, 11, 13, 14,
15, 17, 18, 20, 21, 22, 24, 25,
26, 27, 28, 29 and 31, 1963.

Total: 176 hours

Mr. Joseph Jugasek — May 1, 2, 3, 6, 7, 8, 9, 10, 13,
14, 15, 16, 17, 20, 21, 22, 23,
24, 27, 28, 29, 30 and 31, 1963.

Total: 184 hours

Mr. Donald C. Berg — May 2, 3, 4, 7, 8, 9, 10, 11, 14,
15, 16, 17, 18, 21, 22, 23, 24,
25, 28, 29 and 31, 1963.

Total: 168 hours

Mr. Donald R. Lund — May 1, 2, 5, 6, 7, 8, 9, 12, 13,
14, 15, 16, 19, 20, 21, 22, 23,
26, 27, 28, 29 and 30, 1963.

Total: 176 hours

Mr. Arnold Ramseth — May 2, 3, 6, 7, 8, 9, 10, 13, 14,
15, 16, 17, 20, 21, 22, 23, 24,
27, 28, 29, 31; June 3, 4, 5,
6 and 7, 1963.

Total: 208 hours

Mr. Bert J. Wixner — May 2, 3, 6, 7, 8, 9, 10, 13, 14,
15, 16, 17, 20, 21, 22, 23, 24,
27, 28, 29, 30, 31; June 3, 4,
5, 6 and 7, 1963.

Total: 216 hours

CARRIER'S STATEMENT OF FACTS: The Duluth, Missabe and Iron Range Railway Company consists of two divisions. Generally, that part of the Carrier's system which extends from Duluth to Two Harbors and to the eastern end of the Missabe Range and the Vermillion Range constitutes the Iron Range Division, and that part of the system which extends from Duluth to the Missabe Range constitutes the Carrier's Missabe Division.

The principal business of the Carrier is the transportation by rail of iron ore from the iron mines and processing plants located in the north-eastern part of Minnesota. The ore is transported from the iron mines and processing plants in that area to the ore docks at Duluth and Two Harbors, Minnesota. From its docks at Duluth and Two Harbors, the ore is transported by boat on the Great Lakes to lower lake ports for consumption by steel-producing mills.

Due to the steady decline in ore shipments from 35 million tons shipped in 1959 to 12 million tons shipped in 1962, the Carrier decided prior to the 1963 ore shipping season to ship all the ore tonnage out of one port, Duluth. The Two Harbors docks were shut down. As an indirect result of the non-shipment of ores over the Two Harbors dock, the Carrier consolidated the Stores facility at Two Harbors with the Missabe Division Stores Department at Proctor, Minnesota.

Prior to the opening of the 1963 ore season, the Carrier maintained two Stores Departments, one at Two Harbors, Minnesota, and the other at Proctor, Minnesota. As of April 30, 1963, fifteen employees were employed in the Two Harbors Store Department, and 27 individuals were employed in the Proctor Stores Department.

Prior to May 1, 1963, the date the Stores Department was consolidated, conferences were held with the duly authorized representative, the General Chairman of the Brotherhood of Railway and Steamship Clerks. These conferences were held to effect an orderly consolidation of the Stores Department in compliance with the provisions of Rule 16, Consolidations and Divisions, of the current agreement.

Effective May 1, 1963, the Two Harbors Stores Department was consolidated with the Proctor Stores at Proctor, Minnesota. As a result thereof,

As the Board will observe, the decision of Grand President C. L. Dennis concerning the claims which Carrier has submitted to your Board was rendered under date of December 16, 1963. That decision has not been appealed to the Brotherhood's Grand Executive Council within time limits prescribed in the Brotherhood's internal laws. Therefore, the Brotherhood believes that the eight (8) individual claimants as well as the officers of the lodge in which they hold membership have accepted the decision of Grand President C. L. Dennis.

OPINION OF BOARD: This Claim, which was submitted by the Carrier to this Division on November 6, 1963, is in the same form it was submitted initially by the Employees to the Carrier on the property.

It is uncontroverted that the Employees failed to notify the Carrier's Payroll Accountant, as well as the Director of Purchases and Stores, of the rejection of their decisions as required by Rule 20 (b), Time Limit on Claims. The Claim being procedurally defective must be dismissed.

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 Claim is barred by Rule 20 (b), Time Limit on Claims.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 26th day of October 1967.