



Award No. 15890

Docket No. CL-16160

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Bill Heskett, 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-5915) that:

(a) Carrier violated the Agreement at Richmond, Virginia, when Mr. I. Y. Cox conducted two investigations, made a tape recording of the testimony and then made up rough drafts of the proceedings.

(b) Carrier further violated the Agreement when it failed to use Mr. E. J. Kohl, senior qualified Clerk-Stenographer on the Richmond District, to take notes and transcribe the investigations held in the office of Trainmaster Cox on September 7 and 18, 1964, respectively.

(c) Mr. Kohl be properly compensated for September 7 and September 18, 1964, at the time and one-half rate.

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

Mr. Kohl was employed in the office of Division Superintendent, Richmond, Virginia, until that office was abolished and consolidated with the office of Division Superintendent, Greensboro, North Carolina, which became the Washington-Richmond-Danville Division. Mr. Kohl then placed himself on the position of Chief Bill Clerk in the office of Agent, Richmond, Virginia.

Vacancy Bulletin No. 31, issued under date of October 7, 1958 (Employees' Exhibit I), advertising position of Clerk-Stenographer, Superintendent's Office, Richmond, Virginia, lists as part of the preponderating duties:

(b) Machine Operators, all as hereinafter defined in Rule 2.

* * * * *

It is understood and agreed that the hours of service and working conditions of employes embraced in each respective group above are subject to the specifications and exceptions hereinafter contained in various rules of this schedule.

* * * * *

"RULE 3. EFFECTIVE DATE
(Revised, effective October 1, 1938)

This agreement becomes effective October 1, 1938, and supersedes and cancels all former agreements but does not, unless rules are specifically changed, alter practices or working conditions established by or under former agreements."

"RULE 24. ABOLISHING POSITIONS
(Effective October 1, 1938)

When forces are reduced, the position to be abolished shall be the position or positions which are no longer needed; if there be two or more positions doing the same kind of work paying different rates in the office where such abolishment is to be effected, the position paying the lowest rate shall be abolished.

Understood and agreed that in reducing clerical forces, where there are two clerical employes in the same office assigned to the same class of work, working the same hours and receiving the same rate of pay, if one of the positions is to be abolished it will be the position filled by the junior of the two employes."

OPINION OF BOARD: Trainmaster Cox conducted investigations at his office and recorded same on a tape recorder. The typewritten transcript was prepared by clerks in the Superintendent's office.

Claimant Kohl, occupant of a position of chief bill clerk, alleges that Trainmaster Cox performed work accruing to him.

Inasmuch as it is the unrefuted evidence that Trainmaster Cox's actions were in compliance with the long established practice on the property, it is not necessary to decide all the arguments of the parties. Suffice it to say that the Scope Rule here involved is general, and that the Organization has failed to prove that the work was exclusively done by the clerks. See Awards 13610 (Hamilton), 12897 (Hall), 11907 (Hall), 12381 (O'Gallagher), 12340 (Stack), 12109 (Seff) and 11864 (Seff). Therefore, the claim is denied.

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 Employee involved in this dispute are respectively Carrier and Employee 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 Carrier did not violate the Agreement.

AWARD

Claim denied.

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

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 27th day of October 1967.