

Award No. 16357  
Docket No. CL-16852

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**(Supplemental)**

Arnold Zack, Referee

**PARTIES TO DISPUTE:**

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

**THE CENTRAL RAILROAD COMPANY OF NEW JERSEY**

**STATEMENT OF CLAIM:** Claim of the System Committee of the Brotherhood (GL-6217) that:

(a) Carrier violated Rules 1 and 18(d) (e) of the Clerks' Agreement when they arbitrarily permitted Division Storekeeper, C. J. Coogan to perform assigned duties belonging to Section Stockman John Miller on dates and for the number of hours enumerated:

C. J. Coogan — February 1, 2, 3, 4, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 21, 23, 24, 25, 28 (4 hours each day).

C. J. Coogan — March 1, 2, 3, 4, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 28, 29, 30, 31 (4 hours each day).

(b) Section Stockman John Miller be compensated at punitive time for the hours and on the dates listed above and this claim to be continuing one until violation is corrected.

**EMPLOYEES' STATEMENT OF FACTS:** Mr. J. Miller was assigned by bulletin to position No. 1128, Section Storekeeper, effective November 17, 1965. The assigned hours of service of position No. 1128 are 8:30 A. M.-5:00 P. M. and assigned rest days are Saturday and Sunday, a five (5) day position. The primary duties on this position are:

Checking stock, maintaining stock records, ordering, receiving, handling shipping and accounting for all material in Sec. 1 consisting of material classified in Accts. 14, 15, 21, 22, 29A (Diesel wheels only) 42, 46 and 29. Approve PA Bills, pricing and general clerical work pertaining to the operation of the section.

Mr. C. Coogan is the regular assigned incumbent of position No. 1115, Division Storekeeper (A-1). As position No. 1115 is a supervisory position it does not have assigned hours or duties shown on the job sheet maintained by the Carrier.

On 42 days between February 1st to March 31st, 1965, being the dates specified in Statement of Claim, Mr. C. Coogan did perform work items assigned to position occupied by Mr. J. Miller, such as maintaining stock records, unpacking incoming material and placing it in bins and on shelves in stock book, order number and re-arranging material bins and shelves.

Carrier, in their denial of this claim on the System level (Exhibit F) state: "Division Storekeeper Coogan did assist Mr. Miller at various times but merely to lend a hand to familiarize this employe with the numerous phases of the operation. . . ." We submit that Mr. Miller was assigned to position No. 1128 effective November 17, 1965 and the Carrier did not — until February 1, 1966 — some 75 days later, send Mr. Coogan to familiarize Mr. Miller with his duties. Mr. Coogan did, in fact by himself, perform items of work in Mr. Miller's section which items of work were assigned to Mr. Miller's position while Mr. Miller was occupied in performing other assigned duties of his position.

This claim was originally presented on the local level under date of March 31, 1966 (Exhibit A) and denied under date of April 25, 1966 (Exhibit B). Claim was next appealed on the Division level under date of April 26, 1966 (Exhibit C) and denied on this level under date of May 25, 1966 (Exhibit D).

Under date of May 31, 1966 this claim was appealed to Mr. Craddock, Vice President and General Manager, on the system level (Exhibit E). This appeal was followed by conference on June 20, 1966 which resulted in a denial on the System level dated June 30, 1966 (Exhibit F).

All efforts to dispose of this claim on the property have failed. This leaves no other course but to appeal to your Honorable Board for a just determination.

(Exhibits not reproduced.)

**CARRIER'S STATEMENT OF FACTS:** Claimant J. Miller was assigned to position of Section Storekeeper in the Stores Department on November 15, 1965. His previous assignment was as clerk in other departments with the exception of a 3 month period from May 15, 1963 to August 15, 1963 when he worked in the Oil House in the Stores Department. While Claimant Miller was properly instructed in the duties of this position when he took over on November 15, 1965, it was noted he was falling behind in his work due to his inexperience. On claim dates Division Storekeeper C. Coogan, who is responsible for the operation in question, was sent to familiarize claimant with the numerous phases of the operation, and in so doing was merely lending a hand. Division Storekeeper Coogan, whose headquarters are at Elizabethport where claimant was working at the time, was performing his regular duties and did not suspend work as alleged. There are a number of jobs in the Stores Department which entail work of such a nature that it takes quite some time before the incumbents are able to handle their job in a satisfactory manner, which is especially true when an employe bids in a job, such as the position involved in this claim, with no previous experience in the section.

**OPINION OF BOARD:** When Claimant J. Miller was assigned to the position of Section Storekeeper in the Stores Department on November 15, 1965 he was considered by the Carrier to have been properly instructed in the duties of his position. The position had also absorbed some duties from an abolished position. From February 1 through March 31, 1966 the Carrier assigned Division Storekeeper Coogan to assist Claimant at his position four hours per day giving rise to the instant claim.

The employes claim that this assignment constituted a violation of the Scope Rule since Coogan did work assigned to Miller's position. It also argues a violation of Rule 18(d) and (e) on the theory that by performing the work of Miller's position, Coogan was depriving Miller of overtime work, or preventing the establishment of a position of helper for Miller.

The Carrier asserts that Coogan comes under the parties Agreement and is not precluded from doing work covered by the Scope Rule. It denies that it was depriving Miller of overtime work on the dates in dispute since Miller had been falling behind in his work due to his inexperience and Coogan's function was to merely familiarize claimant with the numerous phases of the operation.

This case turns on whether or not Division Storekeeper C. J. Coogan was engaging in a training function for four hours per day during all of February and March 1965, or whether he was in fact doing tasks that should have been done by Section Stockman J. Miller and thus improperly depriving the latter of overtime.

The evidence is that Miller took over the position after proper instruction acceptable to the Carrier; that his position absorbed some duties from an abolished position; that he was able to handle his work without assistance from November 15 until February 1; that for four hours per day every day thereafter for two months he was accompanied at his position by Coogan; that there had been discussion about creating a helper's position; and that Coogan "was performing work items while the Claimant was occupied performing other work items."

We do not deny the propriety of the Carrier providing instruction to an employe who has fallen behind in his work, even after having been on a position for several months, but the weight of the evidence in this case, indicates that Coogan in his regular, four hours per day attendance, every single work day was doing more than merely instructing. The extent of his involvement with this position on a half-time basis convinces that he was performing work to which Miller was entitled and thus depriving him of overtime in violation of Rule 18(e).

**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 Employes involved in this dispute are respectively Carrier and Employes 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 by the Carrier.

#### AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of THIRD DIVISION

ATTEST: S. H. Schulty  
Executive Secretary

Dated at Chicago, Illinois, this 28th day of May 1968.

Keenan Printing Co., Chicago, Ill.

Printed in U.S.A.