

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Daniel House, Referee

PARTIES TO DISPUTE:

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

NORFOLK AND WESTERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6148) that:

1. The Carrier violated the Memorandum Agreement of April 14, 1961, when it transferred work from the positions of Cashier, Williamson, West Virginia; Cashier, Christiansburg, Virginia and Clerk, Oak Hill, West Virginia to Comptroller Department Seniority District No. 19; abolished said positions, and failed and refused to grant one of the options specified in Section 2 of such Agreement and other protective benefits accruing thereunder to the affected employees.

2. Cashier John B. Whitt, Williamson, West Virginia, shall be allowed to exercise one of the three options outlined in Section 2 of Memorandum Agreement dated April 14, 1961. Further, he shall be compensated for any wage loss suffered on and after May 15, 1964, resulting from the Carrier's failure to comply with the provisions of said Agreement. Also, each employee affected by Cashier John B. Whitt being required to exercise displacement rights shall be granted one of the three options specified in Section 2 of the Agreement and shall be compensated for any wage loss suffered as a result of this violation.

3. Cashier M. M. Smith, Christiansburg, Virginia, shall be allowed to exercise one of the three options outlined in Section 2 of Memorandum Agreement dated April 14, 1961. Further, he shall be compensated for any wage loss suffered on and after May 15, 1964, resulting from the Carrier's failure to comply with the provisions of said Agreement. Also, each employee affected by Cashier M. M. Smith being required to exercise displacement rights shall be granted one of the three options specified in Section 2 of the Agreement and shall be compensated for any wage loss suffered as a result of this violation.

4. Clerk E. P. Oxley shall be allowed to exercise one of the three options outlined in Section 2 of Memorandum Agreement dated April

4, 1961. Further, he shall be compensated for any wage loss suffered on and after May 22, 1964, resulting from the Carrier's failure to comply with the provisions of said Agreement. Also, that each employee affected by Clerk E. P. Oxley being required to exercise displacement rights shall be granted one of the three options specified in Section 2 of the Agreement and shall be compensated for any wage loss suffered as a result of this violation.

5. Cashiers Whitt and Smith, Clerk Oxley and all affected employees shall be granted any other protective benefits accruing to them under the provisions of Memorandum Agreement dated April 14, 1961.

EMPLOYEES' STATEMENT OF FACTS: Under date of April 14, 1961, the Carrier and the Employees entered into an Agreement to (copy previously furnished your Board):

1. Permit the Carrier to transfer positions and/or work from all other seniority districts into the office of the Comptroller Department Seniority District No. 19.

2. Protect and provide certain benefits for the employees involved both from and to where the positions and/or work being transferred.

3. Adjust the rates of pay of positions resulting from the transfer and also of the rebuilt or existing positions from where the positions and/or work was transferred, where such adjustments are warranted and

4. Provide any other benefits as provided in said Agreement.

Effective April 1, 1964, the Carrier superseded its station accounting plan by a centralized accounting system, under which the detail of all agencies' accounts are maintained in the office of Auditor of Station Accounts, Comptroller Department Seniority District No. 19, instead of in the various station agency offices as was done under the old plan. (Exhibit A.)

As a result of this centralization of station accounting the following transfer of work from the station agency offices specified below to the Comptroller Department took place:

Location	Minutes Per Day	Position
Williamson, W. Va.	60	Cashier
Christiansburg, Va.	100	Cashier
Oak Hill, W. Va.	60	Clerk

(Exhibit B)

Page 1 of Exhibit B is statement furnished the Employees by the Carrier, and by mutual agreement between the Parties constitutes notices as required under the provisions of Section 1, Paragraph 2, of the April 14, 1961 Memorandum Agreement. Page 2 of Exhibit B is statement of Clerk E. P. Oxley indicating that some sixty minutes of work per day attaching to his position at Oak Hill, West Virginia was transferred into Comptroller Department Seniority District No. 19, as such information was not furnished to the Em-

"(1) That Cashier John B. Whitt shall be allowed to exercise one of the three options outlined in Section 2 of Memorandum Agreement dated April 14, 1961. Further that he shall be compensated for any wage loss suffered on and after May 15, 1964 resulting from the Carrier's failure to comply with the provisions of Memorandum Agreement dated April 14, 1961. Also that each employee affected by Cashier John Whitt's being required to exercise displacement rights shall be granted one of the three options outlined in Section 2 of Memorandum Agreement dated April 14, 1961 and shall be compensated for any wage loss suffered as a result of this violation.

(2) That Cashier M. M. Smith shall be allowed to exercise one of the three options outlined in Section 2 of Memorandum Agreement dated April 14, 1961. Further that he shall be compensated for any wage loss suffered on and after May 15, 1964 resulting from the Carrier's failure to comply with the provisions of Memorandum Agreement dated April 14, 1961. Also that each employee affected by Cashier Smith being required to exercise displacement rights shall be granted one of the three options outlined in Section 2 of Memorandum Agreement dated April 14, 1961 and shall be compensated for any wage loss suffered as a result of this violation.

(3) That Clerk E. P. Oxley shall be allowed to exercise one of the three options outlined in Section 2 of Memorandum Agreement dated April 14, 1961. Further that he shall be compensated for any wage loss suffered on and after May 22, 1964 resulting from the Carrier's failure to comply with the provisions of Memorandum Agreement dated April 14, 1961. Also that each employee affected by Clerk E. P. Oxley being required to exercise displacement rights shall be granted one of the three options outlined in Section 2 of Memorandum Agreement dated April 14, 1961 and shall be compensated for any wage loss suffered as a result of this violation.

(4) That Cashier Whitt, Cashier Smith, Clerk Oxley and all affected employees shall be granted any other protective benefits accruing to them under the provisions of Memorandum Agreement dated April 14, 1961."

Carrier declined the claim.

OPINION OF BOARD: Organization's case is based on its claim that "the work of the positions involved had diminished through the transfer of work attaching thereto in part to Comptroller Department Seniority District No. 19 to the extent that the Carrier deemed such positions unnecessary." It is undisputed (with regard to two of the three positions involved) that from 60 to 100 minutes of work per day were so transferred. But Carrier claims that this transfer of work did not result in such reduction in the work as to require the abolishment of the positions; that, in fact, the work diminished to an extent requiring the abolishment of the positions as a result of lessening of the general volume of work at the involved locations over a period of time culminating with the elimination of LCL freight handling just before the abolishment of the positions.

The April 14, 1961 Memorandum Agreement provides:

"Section 2. - Employees . . . will have one of the following options **when the work on their respective positions has diminished**, either through the transfer of work in whole or in part to Comptroller Department Seniority District No. 19, **to the extent that such positions are deemed unnecessary**. . . . (Emphasis ours.)

Had the 60 to 100 minutes a day of transferred work not been transferred, and had the general flow of other work lessened to the extent that in fact it did, the question is whether the involved positions would, as claimed by the Organization, have **had to be** continued, or whether they could have been abolished and the remaining work assigned to other positions remaining at the involved locations. This record does not demonstrate that it would have been necessary to maintain the involved positions to perform the work had the work not been transferred. It was up to the Organization to make its case by proving that the transfer of the work did in fact diminish the work to the extent that the positions were deemed unnecessary; this it failed to do.

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 Agreement was not violated by the Carrier.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 19th day of July 1968.