



Award Number 17942

Docket Number CL-18277

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John J. McGovern, Referee

PARTIES TO DISPUTE:

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

BOSTON AND MAINE CORPORATION

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6618) that:

1. The Carrier violated the Clerks' Agreement, particularly Rules 1, 3 and 17, among others, in the Auditor of Revenue Office, General Offices at Boston, Mass., when on Saturday, June 1, 1968 it failed to call Head Clerk, Mr. R. O. Frost, on his rest day, to perform Potato diversion work, but instead used Mr. J. F. McCarthy, Assistant to the Auditor of Revenue, an official, who is excepted from all agreement rules.
2. The Carrier shall be required to pay Mr. R. O. Frost a day's pay at punitive rate of \$45.9468 for rest day work on Saturday, June 1, 1968.

EMPLOYEES' STATEMENT OF FACTS: Under an implementing agreement known as Decision CL-58 effective November 1, 1967, Exhibit "A" attached, the Carrier transferred work and employees including Potato diversion work from its Mystic Jct., freight house office to the Auditor of Revenue Office, General Office, Boston, Mass.

The Potato diversion work prior thereto was assigned to the Chief Clerks position occupied by N. Furlong at then rate of \$3.7355 per hour as shown in the attachment forming part of Exhibit "A" above.

On completion of the transfer the next position listed in the Exhibit as Train Desk Clerk, occupant, R. Frost at \$3.2278 per hour was abolished and its duties combined with the Chief Clerks position.

As Mr. R. Frost, the train desk clerk and Claimant was senior to the Chief Clerk, Mr. Furlong he made a displacement thereon and this combined position is now listed in the attachment as Chief Clerk, 8:20 A.M.-4:50 P.M. at \$3.7355 per hour.

Prior to February 1, 1963 no Chief Clerks position existed in the Freight House Office at Mystic Jct. At the time a position of Potato Foreman & Refrigeration Clerk occupied by Mr. Furlong was located partly in House 13, Charlestown, Mass. and at Mystic Jct. Freight House Office.

On February 1, 1963 the Carrier abolished this position along with a Statistician's position at Mystic Jct Freight House Office and set-up a com-

time, which become objectionable, if in order to accomplish that purpose the Supervisor must purloin clerical work which became pointedly evident in two characteristics, the first involving the inquiry on the Chief Clerk at Mystic who was surprised at a Supervisor handling such work and who in turn instructed the Supervisor on correct procedure and secondly in that the Supervisor instead of relaying such instructions to a clerk, undertook complete handling and followed this by complete shipping information transmitted by scanner to Mystic Jct., including concurrent waybill data for billing purposes.

"Prior to CL 58 this work was entirely handled by Clerks when the freight office was located at Mystic Jct. since time immemorial and now that it is located in the Auditors Office it suddenly becomes Supervisory.

"Please reconsider and advise."

"Yours truly,

/s/ J. Connor
General Chairman"

The same treatment was given this letter as was afforded the Local Chairman at the outset in attempting to obtain a joint statement of facts.
(Exhibits Not Reproduced)

CARRIER'S STATEMENT OF FACTS: On Saturday, June 1, 1968, at about the time the seasonal potato shipments commenced, it was necessary for the relief train desk clerk to divert thirty potato cars. The cars are loaded at various points in Maine and are shipped to Boston, Mass. for diversion from that point to wholesalers or retailers elsewhere. The diversion notification comes from a local dealer (consignee). Diversion work involving potatoes requires prompt and efficient handling as this product is perishable and yard forces must be advised as to icing, routing, etc.

As the train desk relief employee had never had experience in Diversion Clerks' duties involving this product since being awarded the position, it was necessary that the supervisor on duty instruct and guide this relief employee in order to expedite the cars. Claimant Frost, whose position was covered by Relief Employee L. Gorman on his rest days, alleged that the supervisor performed the subject work and that he should have been called in on his rest day.

Mr. Gorman had been on the relief job since November 9, 1967 only and had not been through a "potato season" prior to the claim date.

OPINION OF BOARD: Claimant in this case was the regularly assigned incumbent of the position in question with all of its attendant duties. On his particular rest day, the relief man assumed the duties of the position, but because of his unfamiliarity with such duties, required some assistance and guidance from Carrier's supervisor. The Organization avers that the functions performed by the Supervisor came within the purview of the Clerks' Agreement.

A review of the record convinces us that there was no usurpation of clerical duties by the Supervisor. A Clerk was on duty and under pay, but evidently needed some guidance to fulfill his assignment. This was essentially what he received. We find no violation. We will deny the claim.

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.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 21st day of May 1970.