



Award No. 18501

Docket No. CL-18642

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Gene T. Ritter, Referee

PARTIES TO DISPUTE:

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

KANSAS CITY TERMINAL RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6750) that:

(1) The Carrier violated the Agreement between the parties by their unilateral retention of the names of H. V. Everley, G. J. Thomas, G. A. Stewart and E. W. Walzer on the Seniority Roster of their respective Seniority Departments after having been unilaterally transferred to unofficial positions outside of the Scope Rule of the Clerks' Agreement.

(2) The Carrier now be required to remove the names of H. V. Everley, G. J. Thomas, G. A. Stewart and E. W. Walzer from the Seniority Rosters on which they appear.

EMPLOYES' STATEMENT OF FACTS: On the January 1968 Rosters issued just prior to the origin of the instant dispute:

(1) G. J. Thomas held a seniority date on each the Passenger Department Seniority Classes 1 and 2 of the Agreement of October 1, 1942 as amended and revised as of May 5, 1952 and February 9, 1944 respectively and on the Usher (Red Cap) Roster of the Agreement of April 5, 1939, as amended and revised of June 14, 1942, as reflected by Seniority Rosters of January 1, 1969.

(2) H. V. Everley held a seniority date on the Purchasing and Stores Seniority Roster Class 1 and 2 of November 15, 1961 and August 30, 1948 respectively and by virtue of this Seniority held a date on the Master Seniority Roster, under the Agreement of October 1, 1942, as amended and revised of December 1, 1963 as reflected by the January 1969 Seniority Roster.

(3) G. A. Stewart held a seniority date on the Class 1 Mail and Baggage Department Roster under the Agreement of

CARRIER'S STATEMENT OF FACTS: On the dates indicated the following employees holding seniority on one or more clerical seniority rosters on this railroad were offered and they accepted promotion to official positions of Security Officer on this Carrier:

Date Promoted	Name	Previous Position
3/25/68	H. V. Everley	Stockman-Stores Department
3/25/68	G. A. Stewart	Mail Handler-M&B Department
11/1/68	E. W. Walzer	Janitor-Passenger Department
4/1/68	G. J. Thomas	Gateman-Passenger Department

The four employees involved now have the following seniority dates:

Name	Dept.	Passenger	Mail & Bagg.	Stores	Master
H. V. Everley				8-30-48(CL-2)	
				11-15-61(CL-1)	12-1-63
G. A. Stewart			8-21-50		
E. W. Walzer		2-27-54(CL-3)			
G. J. Thomas		5-5-52 (CL-1)			
		2-9-44 (CL-2)			
		6-14-42(Ushers)			

Representatives of the Clerks' Organization have requested that names of these four promoted employees be removed from all seniority rosters on which they appear, premised on a contention that the position of Security Officer is not an "Official Position" and that these four employees have entered into employment outside the scope of the Clerks' Agreement.

Conference on this dispute was held on May 21, 1969.

OPINION OF BOARD: During the year 1968, Claimants holding seniority on one or more clerical seniority rosters were offered and accepted promotion to official positions of Security Officer on this property. The Clerks' Organization has requested that names of the four Claimant employees be removed from all seniority rosters for the reason that the position of Security Officer is not an "Official Position", and that the Claimant employees have entered into employment outside the scope of the Clerks' Agreement. Carrier contends that the positions of "Security Officer" are appointive, and do not come within the scope of any agreement; that their basic duties are for the protection of railroad property and the protection of the person and property of railroad passengers and employees; that the position of "Security Officer" is an "Official Position" under Rule 2 (d); and that Claimants are entitled to retain their seniority in the departments in seniority class from which promoted.

A close inspection of the Clerks' Agreement fails to disclose a definition of "official positions". Under Award No. 13242 (Dorsey) of this Division, this Board does not have the power to supply a definition of "official positions". Therefore, this dispute cannot be resolved. As a precedent to stripping an employe of seniority rights, the evidence supporting such an action must be clear and convincing. The evidence in this case falls far short of this stand-

ard. Seniority rights are valuable rights, and cannot be taken away unless the schedule rules and evidence warrant such action beyond question. See Award No. 11255 (Miller). Therefore, this claim will be dismissed.

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 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.

AWARD

Claim dismissed.

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

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 9th day of April 1971.