

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19365
Docket Number CL-16727

Paul C. Dugan, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway and Steamship Clerks,
(Freight Handlers, Express and Station Employees
(
(New York Central Railroad - Southern District

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6121) that:

(1) Carrier violated the Clerks' Agreement at East St. Louis, Illinois, on January 23, 1964, when it arbitrarily transferred the clerical work of rating carloads, preparing revenue waybills, figuring extensions, sending out prepaid notices to patrons and other related work, from clerical position No. 8, Rate and Bill Clerk, at East St. Louis, Illinois and assigned the said work to traveling agents and/or assistant agents along the Illinois and Cairo Divisions • employees not covered by the Clerks' Agreement.

(2) Carrier shall now be required to compensate Helen Halloran, extra clerk at East St. Louis, Illinois, for wage loss sustained on January 23, 1964 and all subsequent days until the Agreement has been complied with.

OPINION OF BOARD: Prior to October, 1962 the work of rating carload freight, preparing revenue and memo waybills, figuring extensions, mailing pre-paid freight bill notices and other related work at Mt. Carmel and Mattoon, Illinois, was performed by clerical employees covered by the Clerks' Agreement. On October 12, 1962 this work was transferred by agreement of the parties to Clerical Position No. 8, Rate and Bill Clerk at East St. Louis, Illinois and was performed by the incumbent of that position until January 23, 1964.

On January 23, 1964, Carrier, without notice or agreement, transferred this work to non-clerical employees, namely traveling agents and/or assistant agent operators along the Illinois and Cairo Division of Carrier. Such transfer resulted in this claim.

The Organization contends that the May 23, 1962 agreement required Carrier to give notice and obtain agreement before transferring the work in dispute; that Carrier violated the Scope Rule of the Agreement, Rule 1, and the May 23, 1962 agreement when it unilaterally transferred said disputed work from East St. Louis, Illinois, where the work was being performed by clerks, to other cities and to telegraphers.

Carrier's position is that the past practice on this property as well as the Scope Rule, in effect since July 22, 1922, does not give the clerks exclusive right to the billing of cars; that where there was only one employe, represented by the Telegraphers Organization, at the point, he handled all the duties, including revenue billing on car-loads originating at his station as well as work at other previously closed agencies in close proximity; that at larger points, clerks were employed as needed, assisting the agent to do various work, including billing of cars; that the performance of this work by clerks in the East St. Louis Service Center for the short time involved does not entitle them to the exclusive right to do this work; that the May 23, 1962 agreement applies only in cases where bona fide clerical work, belonging exclusively to clerks in one city or seniority district is transferred to another city or seniority district, where it is performed by members of the same craft; that revenue billing of cars has never been recognized as an exclusive duty of clerks; that the October 11, 1962 agreement, under which some clerks were transferred from outlying points to key points, as East St. Louis, Illinois, involved only the establishment of points for the billing and expensing of less than car-load shipments and that the preparation of revenue billing for car-load shipments still remained the obligation of the various agency points and route established under the Central Agency system; that Claimant was on furlough service, but working extra as needed on January 23, 1964 and she suffered no loss of earnings as a direct result of returning the work to Assistant Agent Operators, as this work has been absorbed by other clerks in the Service Center; that on July 2, 1964 Claimant was permanently assigned a job in the Service Center and is working this job at the present time, and this Carrier's liability, if any, terminated as of July 2, 1964.

The record clearly shows that car billing is not work exclusively given to clerks under the Scope Rule of the agreement, and the awards cited by Carrier support this conclusion.

The question to be determined in this dispute is whether this particular transfer of car billing work, giving rise to this claim, required notice and agreement by reason of the May 23, 1962 and October 11, 1962 agreements. These agreements stem from the streamlining of Carrier's system, resulting in the closing of stations, the creation of service centers and major changes in work and positions.

We find that the May 23, 1962 agreement applies to the transfer of work being performed (emphasis ours). This is clearly seen in the opening paragraph of the agreement which, in substance, states that the agreement is adopted to resolve issues covered by NMB case A6216 in connection with the transfer of work being performed on one of Carrier's operating districts to another Carrier operating district, as well as transfer of work or positions from one seniority district or city to another seniority district or city in the same operating dist

Said May 23, 1962 agreement requires Carrier to give 45 days advance notice of the proposed change, with the effective date 90 days from the notice unless otherwise agreed to. It provides that an agreement shall be negotiated in regard to among such things as provision for employees to follow work utilization of employees, and preservation of rates.

The October 11, 1962 agreement covers in great detail the procedures and assignments in the displacement and replacement of personnel incident to the establishment of "Key Point" LCL centers and the discontinuance of positions and the transfer of work from the discontinued positions to the centers.

Both the May 23, 1962 and the October 11, 1962 agreements do not distinguish between work performed by clerks which is exclusively clerks' work and work performed by clerks of a type which may also be assigned to other crafts.

We find that the language of both agreements cannot be interpreted to exclude transfers of billing work from its intended coverage. The language must be considered in the light of the changes in the clerical work locations, closing of work points, and the establishment of key service centers. The agreements address themselves to the work then being performed by clerks and the work then being transferred from closed stations to newly created service centers.

We, therefore, find that Carrier was required under the terms of the May 23, 1962 agreement to give the clerks' organization the prescribed notice before transferring the work from the clerk's position at East St. Louis, Illinois to telegraphers along the Illinois and Cairo Divisions.

Part (1) of the Statement of Claim is sustained.

We further find that Claimant is entitled to be compensated for her wage loss sustained by reason of the transfer of said work prior to compliance with the May 23, 1962 agreement. The record does not disclose what that loss is, if any, beyond July 2, 1964. We will, therefore, remand Part (2) of the Statement of Claim to the parties on the property for determination of the wage loss sustained by Claimant.

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;

Award Number 19365
Docket Number CL-16727

Page 4

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 in accordance with the Opinion.

A W A R D

Part (1) of the Statement of Claim is sustained.

Part (2) of the Statement of Claim is remanded to the parties on the property for determination in accordance with this Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

E. A. Killen
Executive Secretary

Dated at Chicago, Illinois, this 28th day of July 1972.