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NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24011  
Docket Number CL-23943

Ida Klaus, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks  
( Freight Handlers, Express and Station Employees  
(  
(Illinois Central Gulf Railroad

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood  
(GL-9363) that:

1. Company violated the Agreement between the parties, on October 19, 1979 when, Company abolished Position No. 177, TP Clerk, Meridian, Miss., occupied by Clerk G. R. Ethridge.

2. Company shall now compensate Clerk G. R. Ethridge at the rate of Position No. 177, \$70.42 per day for each day, Monday through Friday, thereafter, plus all subsequent rate increases, in addition to any compensation he has received, beginning October 22, 1979 and continuous, account violation of Rule 16, among others of the current Agreement.

OPINION OF BOARD: The Claimant challenges the propriety of the abolishment on October 19, 1979, of Teleprocessing Clerk Position No. 177 (TP Clerk) on the first shift of the Meridian, Mississippi, Agency - Yard Office and the removal of the incumbent. Three other positions deemed relevant to this claim are another TP Clerk and two lower-rated positions of IBM Clerk and IBM Utility Clerk.

TP Clerk Position No. 177 was established in 1972 to provide a second TP Clerk for the first shift to meet the increased teleprocessing needs of the Meridian Yard office resulting from a merger of the Illinois Central Railroad with the Gulf, Mobile and Ohio Railroad. Under the merged organization, the additional TP Clerk was assigned to the first shift at Meridian to handle the teleprocessing work of placements and releases for two districts served by the former Gulf, Mobile and Ohio. The other TP Clerk remained on the first shift to perform the rest of the normal teleprocessing work. Meridian, thus became the only location on the merged railroad with two TP Clerks on the same shift in the same office. Two lower-rated clerks (IBM and IBM Utility) were assigned to work with and under the two TP Clerks. Their primary duties were to assist TP Clerks in cutting IBM cards and checking yards and industries.

Over the years, the teleprocessing work of the position decreased, and the scope of its duties narrowed. All the teleprocessing work for one of the two districts served by the position, and most of that for the other district, was transferred to other locations. With the removal of that work, the incumbent

was assigned some of the teleprocessing tasks of the other TP clerk position on the shift as well as some interchange work at Meridian. He was also assigned duties that are performed by all clerks. Then, several months before the abolishment of the position, the interchange work was transferred to another location.

On October 19, 1979, TP Clerk Position No. 177 was abolished and the incumbent was removed. The remaining teleprocessing work performed at that time by the incumbent was assigned to two other positions on the shift. The release and placement work for Meridian was turned over to the other TP Clerk Position. The processing of certain reciprocal switching reports was placed on the higher rated Rate Clerk position. Other miscellaneous duties of the incumbent were the same as those performed by all clerks at Meridian and required no position reassignment.

The issue in contention centers on Rule 16 of the parties' Agreement. It reads as follows:

"Rule 16. REDUCTION IN POSITIONS

(a) Established positions shall not be discontinued and new ones created under a different title covering relatively the same class of work for the purpose of reducing the rate of pay or evading the application of these rules

(b) Subject to paragraph (c) of this rule, in effecting a general reduction in clerical forces in an office or department, if two or more clerks are performing the same or similar work, the lowest rated position in such group (or if all are rated the same, the job held by the junior employee) shall be the first cut off. If no such groups or positions exist, the lowest rated clerical position in the office or department affected will be cut off provided the efficiency of that office will not be impaired by so doing (underscoring added).

(c) Any position may be abolished when the major portion of its work or requirements is no longer needed."

The Organization contends that the Carrier improperly failed to observe the force-reduction requirements of paragraph (b) when it abolished the TP Clerk position. Since, in its view, the TP Clerk and the two IBM Clerks were performing "the same or similar work", the Carrier should have abolished the lower-rated position held by the junior employee.

The Organization regards paragraph (b) as applicable, for two reasons: First, the introductory "subject to" phrase of paragraph (b) subjects the Carrier's paragraph (c) abolishment authority to the requirements of paragraph (b). Second, paragraph (c) was in any event inoperative because the controlling condition it prescribes was not present here, as is shown by the reassignment to others of the work of the position.

The Carrier responds that it acted in proper accord with its inherent managerial authority, recognized in paragraph (c) to abolish unneeded positions in the interest of efficiency and economy. It asserts the position was no longer needed because the major portion of the work for which it was established had diminished to a point where it could be absorbed by one TP Clerk on the shift. It considers that only a lesser portion of the work remained in the position and that it was properly transferred. The Carrier regards its action as governed entirely by the provisions of paragraph (c), without any control or limitation by paragraph (b). It would in any event find (b) inapplicable to this particular situation because it does not regard the work of the Teleprocessing Clerk and that of the two lower-rated positions as "the same or similar".

In the Board's view, neither basic contention is wholly acceptable. While the two paragraphs are separate and distinct, they may reasonably be said to operate in harmony in appropriate circumstances.

We cannot fairly interpret the "subject to" phrase of (b) as a limitation on the operation of (c) where the conditions prescribed by (c) have been shown to exist. Such an interpretation overlooks the difference in the basic purpose of the two separate paragraphs.

Paragraph (b) concerns the order in which a general reduction in force will affect a group of incumbents, but not the essential functions of their positions. Its clear purpose is to provide a fair and rational force-reduction procedure. Paragraph (c) addresses the need for the essential nature of the functions of a particular position in the operation of the enterprise. Its focus is on the position itself, not on those who occupy it. Its plain purpose is to assure that management's recognized authority to eliminate positions will be fairly and reasonably exercised. As the paragraph makes no reference to the person performing the duties of the position, it may reasonably be said to imply that incumbency falls with the position.

Had the parties intended to make the abolishment authority of (c) subject to the procedures of (b), it would have been more logical and sensible of them to say so by words of limitation in (c) linking it with (b). It is in fact reasonable to ask whether (c) would be needed at all if (b) were intended to be controlling in the case of true position abolishment. The placement in (b) of the "subject to" phrase can thus be said to reflect an intention to confirm the separate and independent role of (c).

At the same time, we recognize that a further logical function of the phrase is to make (b) controlling where the Carrier has failed to make the necessary showing under (c) to justify the abolishment of the position.

The narrow issue accordingly presented in this claim is whether the Carrier has met the burden of proof placed upon it by the requirements of paragraph (c). We find that it has.

There is substantial evidence of a probative nature to support the Carrier's position that the major portion of the work and requirements of TP Clerk Position No. 177, as established, was no longer needed in its Meridian operations. We cannot find from the evidence that a sufficient amount of work remained in the position at the time it was abolished to warrant continuation of the position.

On the record before the Board, we conclude that the abolishment constituted a proper exercise of the Carrier's discretion under paragraph (c) of Rule 16. We may not overturn that judgment. Accordingly, the Board concludes that paragraph (b) was not applicable.

The claim will be denied.

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: Acting Executive Secretary  
National Railroad Adjustment Board

By   
Rosemarie Brasch - Administrative Assistant



Dated at Chicago, Illinois, 20th day of October 1982.