

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25135
Docket Number CL-23878

Wesley A. Wildman, Referee

(Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees
PARTIES TO DISPUTE: (
(The Belt Railway Company of Chicago

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-9367) that:

1. Carrier violated the effective Clerks' Agreement when, on October 13, 1979, it established so-called "General Information Clerk" positions, which positions were de facto, extra board assignments over and above the number permitted by Agreement;

2. Carrier shall now compensate the incumbents, if any, and/or the senior available employe not called in accordance with their seniority, for eight hours' pay at the time and one-half rate of the position listed in Employees' Exhibit "A" for the dates set forth therein; proper Claimants to be determined by a joint check of Carrier records.

OPINION OF BOARD: The Organization asserts here that creation by Carrier of four new "General Information Clerk" positions was nothing more than a patent subterfuge to avoid limitations on the number of clerical extra board positions allowed by the Agreement between the parties. The Organization advances in support of its claims the undenied facts, 1), that Carrier had expressed, in negotiations and elsewhere, longstanding dissatisfaction with overtime expense as well as with the contractual limitations on extra board positions and, 2), that in the early weeks following the establishment of these new jobs, most of the shifts worked by the new incumbents involved the filling of short vacancies.

Carrier relies, for the most part, on two undenied facts not totally responsive to the issue raised by the Organization. First, Carrier points out that it followed all Agreement requirements for the establishment of the new positions (i.e., proper bulletining, acceptance of bids, etc.). Second, Carrier correctly maintains that it has certain rights contractually to use incumbents of regularly established positions to cover critical short vacancies.

It is, of course, true that the creation of new positions and (unless specifically limited by contract) the determination of staffing levels are normally considered vital managerial prerogatives. The record before us is slight, containing much more of assertion and argument than of fact. To face the issue before us squarely and quickly, we simply do not have on the record in this case sufficient evidence to sustain the Organization's position or to justify the sweeping and profound remedies which would follow. Lacking here, for instance, is adequate information on the relationship of these newly created jobs to the pay, working conditions, and work performed on typical extra board and regularly established clerical positions. As another example, also necessary to a reasoned examination of the issue in this case would be a much more extensive history of these new jobs over a considerably longer period of time than is presented on this record. Accordingly, the claim in this case must 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:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 9th day of November 1984.

