

PUBLIC LAW BOARD NO. 3545

34

Award No. 4  
Case No. 1

PARTIES  
TO  
DISPUTE

Brotherhood of Railway, Airline and Steamship Clerks,  
Freight Handlers, Express and Station Employees  
and  
Seaboard System Railroad

STATEMENT  
OF CLAIM

- "1. By letter of intent dated November 30, 1982, Carrier violated the New York Dock labor protective conditions as imposed by the Interstate Commerce Commission in Finance Docket No. 30053, by failing to properly compensate Clerk W. L. Jeffords on or after February 6, 1983, when adversely affected by a transaction on January 22, 1983.
2. Carrier shall now compensate Clerk Jeffords an additional \$123.42 for February 1983."

FINDINGS

Upon the whole record, after hearing, the Board finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Board is duly constituted under Public Law 89-456 and has jurisdiction of the parties and the subject matter.

The record indicates that the position of Florence Division Car Distributor was abolished on January 22, 1983. The incumbent of that position then displaced the position of claimant in this matter. Claimant herein, in turn, displaced a junior clerk effective February 6, 1983. The dispute in essence is whether the abolishment of the original Car Distributor's position, and therefore the impact upon claimant as a result of the bump, was as a result of a transaction as the term is used in the New York Dock protective conditions. Claimant had requested a payment of the difference between the amount earned in his new position and his guarantee under the terms of the New York Dock conditions. Carrier alleged that the New York Dock conditions were not applicable and, in fact, the position was abolished under other circumstances and the Job Stabilization Agreement of May 7, 1981 was controlling.

The record indicates that on March 7, 1979, the Carrier's car distributor function was coordinated with that of the newly acquired merger partner (Seaboard Coastline Railroad and the L and N). The record reveals that the abolishment of the car distributor position was in no way connected to the Carrier's notice of November 30, 1982, or the merger between the two railroads under the ICC Finance Docket provisions. In fact, as the record reveals, the job abolishment was one which could have been accomplished regardless of whether or not the two railroads were merged. The record is clear that the position was abolished because it was no longer required due to the technological organizational changes in the entire car distribution system. The record reveals further that in addition to the position herein, Carrier also abolished car distributor positions at seven other points on the railroad and those positions, as well as that involved in this dispute, were in compliance with the original agreement of May 7, 1981.

The record indicates that the parties agreed that the issue which the Board would deal with was whether or not Carrier violated the New York Dock labor protective conditions by failing to properly compensate the claimant herein on or after February 6, 1983, if he was adversely affected by a transaction on January 22, 1983. It is the Board's view that Claimant Jeffords was a protected employee under the provisions of the Job Stabilization Agreement and therefore his compensation as a protected employee was controlled by that agreement. The position which claimant occupied as of January 1, 1983 had a guaranteed rate of \$94.30. The rate of the position on which claimant placed himself at the time of his displacement was \$94.29 per day, or a 1¢ difference, or 17¢ for the month of February 1983.

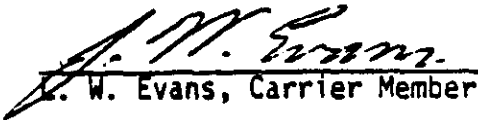
It is the Board's view that the claimant was not subject to the New York Dock conditions and that the Organization failed to support its position by either evidence or authority to the contrary. Thus, the transaction involved in this matter was not a New York Dock transaction and the claim must be denied.

AWARD

Claim denied.



I. M. Lieberman, Neutral-Chairman



L. W. Evans, Carrier Member



L. E. Boshier, Employee Member

Jacksonville, Florida

July 31, 1985