

J. J. [unclear]
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SPECIAL BOARD OF ADJUSTMENT NO. 605

PARTIES)
TO)
DISPUTE)
Brotherhood of Railway, Airline and Steamship Clerks,
Freight Handlers, Express and Station Employees
and
Kansas City Terminal Railway Company

QUESTIONS
AT ISSUE:

1. Did the Carrier violate the provisions of the February 7, 1965 Agreement when it refused to recognize the occupant of a position designated as "Head Timekeeper" on October 1, 1964 as being a protected employee?
2. Did the Carrier violate the provisions of Article IV, Section 1, when it refused to compensate Claimant at the protected rate of "Head Timekeeper" upon the abolishment of the position to which subsequently assigned and held on April 1, 1970?
3. Shall the Carrier be required to compensate Claimant R. R. Reasoner pursuant to Article IV, Section 1, at the normal rate of "Head Timekeeper" for each day subsequent to the date of April 15, 1970?

OPINION
OF BOARD:

On October 1, 1964, Claimant was regularly assigned as Head Machine Timekeeper in the Audit Department--a "B" position. This is a fully appointive position and exempt from the application of Rules 5, 6, 7, 8, 9, 10, 11, 12, 14 and 15--promotion, bulletin, qualification, reducing force and starting time. However, if discipline is to be assessed, then the pertinent discipline rules are applicable.

On November 1, 1969, Claimant was promoted to an official position of Land and Tax Agent which was abolished on April 14, 1970. Thereafter, Claimant exercised his seniority and displaced on a Machine Operator position, with a lower rate of pay than the previous Head Timekeeper position. Thus, the instant claim seeks an adjudication for the difference in compensation between the alleged protected rate of Head Timekeeper and the Machine Operator position.

Initially, we would note that our Board has previously grappled with problems involving the interpretation of the February 7, 1965 Letter of Understanding, as reflected in Award Nos. 36 and 195. Pertinent therein is the following contained in Award No. 36, viz:

However, we cannot ignore the fact that the rate of pay of such position was not subject to negotiation. Further, that the position was fully appointive with full right of removal and not predicated upon seniority in such appointment. We have, therefore, concluded that in view of such position being a supervisory one, such was not subject to the protective provisions of Article IV, Section 1.

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In order to focus our perspective on the instant dispute, necessarily, we start with the Letter of Understanding, appended to the February 7, 1965 National Agreement. The pertinent portion provides as follows:

"If --- officials, supervisory or fully excepted personnel ---"

For the purpose of our analysis, we accept the fact that on October 1, 1964, Claimant occupied the position of Head Timekeeper. In that capacity, he was neither an official nor in a fully excepted position, as conceded by the Carrier. Hence, our quest is to ascertain whether he occupied a supervisory position. In that regard, we quote the relevant portions from the submissions of the parties.

The Organization alleges as follows:

The Carrier's argument that the "Head Timekeeper" position is a supervisory one is untenable. Prior to the introduction of Machines in the Audit Department the "Head Timekeeper" was a truly supervisory position in that there were several positions carrying the title of "Time-keeper Clerk" with six (6) different rates of pay contingent upon the various duties and responsibilities attaching to each, over which the "Head Timekeeper" exercised supervisory authority. Upon the introduction of IBM Machines in late 1957 or 1958 the positions of "Time-keeper Clerks" were gradually eliminated to the extent that there were but three (3) such positions in existence by May 1958 and as of the date of October 1, 1964, there were no positions in the Audit Department bearing a title of "Timekeeper Clerk" over which the Head Timekeeper exercised supervisory authority.

Thus, the thrust of the Organization's argument is to the effect that although the title of the position of Head Timekeeper was retained, the duties were dissipated. In contrast to the above-quoted statement, the Carrier argues as follows:

The duties of Mr. Reasoner's former Head Timekeeper position included responsibility for all time vouchers, ICC excess Hours of Service report, distribution of supplemental engine hour statement, payrolls for yardmasters, yardmaster clerks, towerman and switchtenders; engineers', firemen's and switchmen's time returns, and supervising and assisting clerks that performed duties for which the Head Timekeeper was responsible.

Hence, a careful reading of the Carrier's job description of the former duties of the Head Timekeeper indicates that he was responsible for accomplishing numerous reports, vouchers and payrolls. Plus supervising

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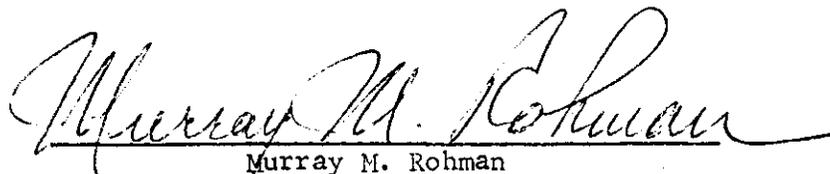
and assisting clerks who performed duties for which the Head Timekeeper was responsible. In passing, we would merely comment that a trainman or switchman or clerk or telegrapher has responsibility for performing assigned tasks.

Can it truly be said that when Claimant occupied the position of Head Timekeeper in October, 1964, he was performing supervisory functions? We would agree that he was responsible for performing certain duties assigned to him, however, these were not supervisory predicated upon our analysis of the carrier's submission--nor did he have the requisite authority.

In summary, it is our considered judgment that inasmuch as the rate of pay of the Head Timekeeper position--a B position partially excepted from the rules--was subject to negotiation, therefore, it is distinguishable from Award No. 36. Moreover there is insufficient probative evidence that the Thomas claim constituted a precedent for the Claimant in the instant case. Furthermore and more importantly, we conclude that the Head Timekeeper position on October 1, 1964, was not a supervisory position as contemplated by the February 7, 1965 Letter of Understanding.

AWARD

The answer to questions (1), (2), and (3) is in the affirmative.


Murray M. Rohman
Neutral Member

Dated: Washington, D. C.
March 27, 1972