

SPECIAL BOARD OF ADJUSTMENT NO. 170

BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYEES
versus
ILLINOIS CENTRAL RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(a) The Carrier violated the Clerks' Agreement at the Passenger Station, Fort Knox, Kentucky, when on August 1, 1948, it assigned the duties in connection with the sale of tickets on Ticket Clerks' rest days and on holidays to telegraphers.

(b) Ticket Clerks #J. E. Armstrong and #J. A. Argast, and their successors if there be any, be compensated for wage loss suffered on all Sundays and holidays during period August 1, 1948, to August 31, 1949, representing eight hours' pay per day at punitive rate.

(c) Ticket Clerks #J. E. Armstrong and #J. A. Argast, and their successors if there be any, be compensated for wage loss suffered on their respective assigned rest days and on holidays beginning on September 1, 1949, representing eight hours' pay per day at punitive rate.

(d) Ticket Clerk #B. H. Wheeler, and his successor if there be any, be compensated for wage loss suffered on his assigned rest days and on holidays beginning on September 2, 1950, representing eight hours' pay per day at penalty rate.

#NOTE: Reparation to be determined by joint check of Carrier's payrolls and other records.

OPINION: The dispute in this case arises out of the Carrier's action in requiring telegraphers to sell tickets and handle other matters related to the operation of the agency at Fort Knox, Ky. on days and during periods no clerks are on duty. At the time this issue arose, there were three clerical positions in the passenger station, two bearing the title of ticket clerk and one bearing the title of cashier. The clerical employees in the ticket office perform all work in connection with the preparation and sale of tickets, the accounting records for such sales, making Pullman reservations, as well as furnishing information requested by the traveling public.

It also appears that telegraphers were relieved on rest days by regular assigned relief employees. No relief employees were assigned to rest day service on the clerk's position. The telegraphers performed relief service on Saturdays, Sundays and holidays for ticket clerks Armstrong and Argast.

It is the position of the Employees that the traditional and customary work assigned exclusively to these positions constitute work falling within the Scope of the Agreement, and it is a violation of the Agreement to permit persons not covered by the Agreement to perform it.

It is the position of the Carrier that the claim should be denied for failure to handle it promptly as required by the Railway Labor Act.

We note that there is no Statute of Limitations in the Railway Labor Act, and in the absence of a showing of prejudice to the Carrier by Employees' failure to process their claim promptly, we are of the opinion that the delay is not a bar to employees having their claim decided on its merits.

Carrier also urges that the claim should be dismissed unless the Telegraphers' Organization is given due notice of hearing and permitted to participate therein. We note that the record in this case shows no evidence that the Telegraphers sought intervention. In the absence of such a showing, the point raised by Carrier is not well taken.

It is also urged by the Carrier that there is nothing in the Agreement to prevent telegraphers from performing the sale of tickets to the extent that they have time to do it.

It is the general rule that when the work demands the assignment of a clerk, all the clerical work belongs to the clerk's position. See Award No. 4477.

In Award 6855 it is said:

"Award 6855: . . . It is clear, therefore, that Carrier used an extra man of another craft to perform Clerk's work on the sixth day of Claimant's position. This is a violation of the controlling Agreement. This Board is committed to the view that an employee in another craft or class may not be used to relieve a Clerk on his assigned day of rest. Awards 2052, 2469, 5240, 5501. It is not a case where a furloughed employee of another craft worked under the Clerks' Agreement. Under the circumstances, it is not necessary to discuss whether Newcomb had actual or potential seniority, or was a bona fide employee, under the Clerks' Agreement. The Agreement was violated irrespective of those issues."

In the case at bar, the work performed by the telegraphers was something in excess of being incidental and was a violation of the Agreement.

FINDINGS: The Special Board of Adjustment No. 170 after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act;

That the Special Board of Adjustment No. 170 has jurisdiction over the dispute involved herein, and

Award No. 6
Docket No. CL-7737

That the Carrier has violated the Agreement.

AWARD: Claim sustained at straight time rate.

SPECIAL BOARD OF ADJUSTMENT NO. 170

/s/ Edward M. Sharpe
Edward M. Sharpe -- Chairman.

/s/ A. B. Simmons
A. B. Simmons -- Employee Member

/s/ E. H. Hallmann
E. H. Hallmann -- Carrier Member

Chicago, Illinois
February 26, 1957