

COPY

SPECIAL BOARD OF ADJUSTMENT NO. 192

PARTIES:

BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES
and
THE BALTIMORE AND OHIO CHICAGO TERMINAL RAILROAD
COMPANY

AWARD IN DOCKET NO. 44

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

(1) Carrier violated the Scope Rule and other Rules of the Clerks' Agreement when it abolished the position of Steno-Clerk in the Car Foreman's Office at East Chicago, Indiana, with the close of business on July 5, 1956, and assigned certain work formerly performed by the occupant of the Steno-Clerk position, to Carman Checker Arnold Kliet whose position in that capacity is covered by the agreement between the Brotherhood of Railway Carmen of America and the Carrier, and

(2) That William Lohmeyre, covered by the Clerks' Agreement, be compensated for eight hours at penalty rate from July 6, 1956, and each subsequent date until violation was corrected on November 6, 1956, when the Steno-Clerk position was restored.

FINDINGS:

After the abolition of a Steno-Clerk position in the car foreman's office at East Chicago there were no more clerical positions at that location. For purposes of this case it is conceded that less than four (4) hours work per day of the abolished position remained to be performed. The clerical work was thereafter performed by a carman-checker.

Rule 1(c)2 permits the performance of up to four (4) hours work per day of an abolished position where no position under the Clerks' Agreement exists at the location when the work is performed by an Agent, Yardmaster, Foreman or other Supervisory employee provided that such work is incident to the duties of such employee.

There is no question raised about the work performed being incident to the carman-checker position so that the only question is whether or not that employee is a Supervisory employee as that term is used in Rule 1(c)2. With respect to that question there is conflict.

The employees assert that the Carman-Checker is covered by the Carmen's Agreement and supervises no employee covered by the Clerks' Agreement and that his qualifications are set forth in a bulletin reading as follows:

"Must be able to inspect and check repairs to cars as per
A.A.R. Rules and Regulations and B&O instructions."

The Carrier contends that the Carman-Checker directs the work of carmen and originates the necessary information from which reports as to work accomplished and materials used are prepared, that after an overall operation is set out by a foreman it may be placed in the hands of a carman-checker to ascertain that the work is being done on a particular scheduled operation.

It is apparent from the wording of Rule 1(c)2 that it is not necessary in order to qualify as a Supervisory employee one must supervise work of employees covered by the Clerks' Agreement. It is further clear that the Agreement recognizes that Foremen are not the only supervisory employees intended by the Rule. It is apparent that if the facts are as stated by the Carrier the carman-checker would be considered as a supervisory employee since over-seeing for direction and inspection with authority to require changes in work to meet inspection standards are elements comprising the supervisory function. On the other hand if the carman-checker merely inspects without authority to direct work he would not necessarily qualify as a supervisor. We have no way of resolving the conflict between the employees' version of the function of the carman-checker and the carrier's version. Accordingly, we have no alternative but to dismiss this claim

AWARD

Claim dismissed.

/s/ Francis J. Robertson
Chairman

/s/ E. J. Hoffman
Employee Member

/s/ T. S. Woods
Carrier Member

Dated at Baltimore, Maryland this
27th day of August, 1959.