

PROCEEDINGS BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 239
(Clerks' Board, St. Louis, Missouri)

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS, FREIGHT HANDLERS,
EXPRESS AND STATION EMPLOYEES

MISSOURI PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

1. Carrier violated the Clerks' Agreement when, at close of tour of duty on Monday, May 12, 1958, it abolished the position of Baggage man at the Passenger Station at Gurdon, Arkansas, and effective Tuesday, May 13, 1958, it removed part of the work attaching to that position from the scope and operation of the Clerks' Agreement and assigned it to Telegraph Operators, employes of another class and craft, and covered by another Agreement, which was in violation of Rules 1, 2, 3, 5, 6, 45 and other related rules of the Clerks' Agreement;
2. The Carrier shall be required to compensate Cashier Fay Marshall for a punitive day's pay at the rate of \$23.79 per day for May 13, 14, 15, 16 and 17, 1958, amount \$118.95;
3. The Carrier shall also be required to compensate Cashier Fay Marshall, or his successor or successors for a punitive day's pay at the rate of the Baggage man position that was abolished, for each date subsequent to May 17, 1958, until the violation is discontinued.

OPINION OF BOARD:

Claim is made on behalf of the named claimant for 8 hours pay at the punitive rate for May 13, 14, 15, 16, 17 and subsequent dates account Carrier abolished a position of Baggage man at Gurdon, Arkansas, at the close of the tour of duty on May 12, 1958.

In Docket CL-6324, Award No. 13, this Board found that the Clerks' Agreement was not violated when Carrier abolished a General Clerk position at this same location. We learned from our study of that docket that the instant claim was at issue and that it relates, in some measure, to like facts and circumstances. There are points of distinction, however, that lead to different conclusions.

The abolishment of positions is involved in both dockets. The transfer of work, claimed to be within the scope of the Clerks' Agreement to a position not covered, is what provoked both disputes. The two claims relate to a portion of the same work. This claim has to do primarily with handling U. S. mail, baggage and express off and on trucks and passenger trains; checking, separating, and delivering same; lining it up for loading on other trucks or passenger trains for outbound dispatch; and, the janitor work in and about the passenger station.

Starting back in November, 1928, the volume of passenger station work at the ticket office called for the assignment of two Ticket Clerks, two Baggage-men, and three Porters. It seems that since late 1945 or early 1946, down through the years, the clerical force mainly consisted of one Ticket Clerk position and two or three Baggage-men positions. At the close of business January 21, 1957, the only remaining Ticket Clerk position was abolished. At that time there were two Baggage-man positions left - one with hours 6:00 AM to 3:00 PM, meal period 11:30 AM to 12:30 PM, rest days Friday and Saturday - one with hours 8:45 PM to 5:45 AM, meal period 1:00 AM to 2:00 AM, rest days Wednesday and Thursday.

A Baggage-man position was abolished at about the same time a General Clerk position was established. (See Award 13). This left one Baggage-man with assigned hours from 8:45 PM to 5:45 AM, meal period from 1:00 AM to 2:00 AM, seven days per week, rest days Wednesday and Thursday. The remaining Baggage-man continued to perform the work of handling U. S. mail, baggage and express during the hours of his assignment, until that position was abolished on May 12, 1958. It is further shown by the record that employees subject to the Clerks' Agreement at the freight and yard office at Gurdon are still being used, as in the past, to assist with the work in no small detail.

The great latitude Carrier enjoys under N.R.A.B. (Third Division) Awards with respect to reducing forces, without negotiating contract changes, so long as work is not removed from the contract is demonstrated herein. All passenger station work at Gurdon does not belong exclusively to Clerks. Hence, Carrier has been successful in abolishing the two Ticket Clerks and one General Clerk positions. The Baggage-men and Porters are gone. The work now is being done by the Agent and Telegraphers with the assistance of clerical force from the freight and yard office. The Employees complain about this. They further complain that Telegraphers would not have time to do any of the work if they were used exclusively on their own work; that Dispatchers are performing a part of the Telegraphers' work thus releasing them to do work that is subject to the Clerks' Agreement.

This Board cannot be drawn into a dispute over the question of whether or not Dispatchers are doing the work of Telegraph Operators. On the other hand, it appears reasonably certain that the work here in dispute has been performed historically and traditionally down through the years by the clerical forces at Gurdon. It is the work of Clerks and should not have been removed from the Clerks' Agreement without their consent.

While there is adequate showing that the Clerks' Agreement is being violated, we cannot sustain the claim as stated. Claimant has a regular assignment. The fact he was eligible for a "call" is not conclusive that he should have been called under the facts and circumstances in this docket or that he would have performed 8 hours work if he had been called. The employees have mistaken the remedy and we may not order payment of a claim simply because one is at issue before us.

The violation of the contract will be remedied by returning the station platform work at Gurdon to those employees entitled thereto under the Clerks' Agreement, and that will be the order of this Board.

FINDINGS:

The Board, after oral hearing, and upon the 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, as amended;

That jurisdiction over the dispute involved herein has been conferred upon this Board by special agreement; and,

That the Agreement by and between the parties to this dispute has been violated.

AWARD

Claim disposed of in accordance with the above opinion by order of:

Special Board of Adjustment No. 239

/s/ A. Langley Coffey

A. Langley Coffey, Chairman

/s/ F. E. Griesse

F. E. Griesse, Employer Member

/s/ Ira F. Thomas

Ira F. Thomas, Employee Member

Dated at St. Louis, Missouri,
this 30th day of June, 1959.