

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25003
Docket Number CL-25037

Thomas F. Carey, Referee

(Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station **Employes**
PARTIES TO DISPUTE: (
(Atchison, Topeka and Santa Fe Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-9737)
that:

(a) Carrier violated the Agreement at Abilene, Kansas, when it requires or permits an official (Manager-Regional Freight Office) to perform duties which were assigned to and an integral part of the duties of Agent Train Order Clerk Position No. 6229 at Abilene, Kansas, prior to that position being abolished.

(b) The duties of Agent T. O. Clerk Position No. 6229, which are now being performed by an **employe** not covered by the Agreement (**Manager-Regional Freight Office**) shall now be restored to the Agreement, and

(c) E. J. **Herbel** shall now be compensated eight (8) hours pro rata at the rate of former Position No. 6229 (**plus** subsequent wage increases) for each workday of that position, commencing Monday, January 18, 1982, and continuing until the work that was removed from the scope of the Agreement is restored thereto and the violation ceased.

OPINION OF BOARD: Claimant E. J. **Herbel**, who has a seniority date of October 9, 1957, on the Middle Division Station Department Seniority District, was the successful bidder of Agent-Train Order Clerk Position No. 6229 at Abilene, Kansas, prior to that position being abolished effective with the close of work Friday, January 15, 1982. On January 16, 1982, the Carrier appointed a **supervisory Manager** (Manager-Regional Freight Office) to train clerical personnel, conduct **customer** relations, and make general preparations for the additional stations, customers. and 8 additional miles of railroad Regional Freight office would handle between January 1982 and July 1982.

The primary concern here revolves around the work of the newly appointed supervisory Manager-Regional Freight Office and its relation (comparison) to the duties which were assigned to the abolished Agent-Train Order Clerk Position No. 6229 at Abilene, Kansas. Carrier maintains that the new position of Manager-RFO was **completely different from** the former position of Agent-T.O. Clerk, Position No. 6229. Claimant maintains that the new position absorbed a portion of the duties of Position No. 6229 violating the Agreement.

The Claimant maintains that Agent-T.O. Clerk Position No. 6229 **"supervises & directs** the Carrier's agency business & functions at Abilene, Kansas as well as the duty of supervising & directing the other **employes** at that station." Unfortunately, Claimant has not specifically enumerated

what supervisory duties were delegated to Position No. 6229. Furthermore, the record shows when Position No. 6229 was abolished effective January 15, 1982, Carrier assigned all the remaining clerical work of Position No. 6229 to employes at the Abilene location who are covered by the Clerk's Agreement. This fact is made clear because Carrier also abolished Position No. 6231, Control Clerk, and concurrently therewith re-established Position No. 6231-RFO-Train Order Clerk, spanning the hours of 2:00 p.m.-10:00 p.m., Monday-Friday and also established Position No. 6230-RFO Train Order Clerk, spanning the hours 6:00 a.m.-2:00 p.m., Monday-Friday. Position No. 6230 was delegated the same duties as Position No. 6231. The duties of former Position No. 6229 were disseminated to other clerical positions at that location.

Hence, the record establishes the position of Manager-RFO was completely different from the former position of Agent-T.O. Clerk. Position No. 6229. The Manager-RFO serves as a "decision-making supervisor" while Position No. 6229 had no authority over the three other employes at Abilene, Kansas. Position No. 6229, unlike Manager-RFO, performed strictly supervisory and managerial in nature. Position No. 6229 was only responsible to see that the necessary reports were handled on time. Any supervisory duties claimed by the Petitioner cannot be considered to have belonged to the employe assigned thereto, since the record indicates that the "supervisory duties" involved are "new".

The Employes rely upon the Scope Rule of the Agreement to sustain their position in this dispute. Accepted doctrine in this industry indicates that when an Agreement applies to Carrier's operations on a system-wide basis, the particular practice upon which claim is made must be system wide. No evidence has been presented to indicate that the Organization performs the work in question on a system-wide basis. It must be noted that the Scope Rule in question is a general Scope Rule and it is quite clear that the exclusive right to the work is dependent upon the demonstration of system-wide historical performance of the work in question. There have been a host of Awards dealing with this issue (Public Law Board No. 2281).

Given the facts of this case, the Agreement, including the Scope Rule, provides no support for the Petitioner's position that the work in question has, by the terms of the Agreement, ever been reserved exclusively to the clerks on a system-wide basis (Public Law Board No. 3296).

There is clearly an insufficient basis in the record upon which to support the claim advanced by the Petitioner.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employes involved in this dispute are respectively Carrier and Employes within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

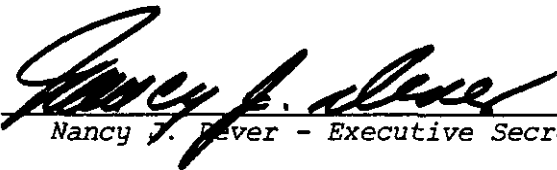
That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:



Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 26th day of September 1984.

