

**Award No. 1835**

**Docket No. 1775**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**FOURTH DIVISION**

The Fourth Division consisted of the regular members and in addition Referee Harold M. Weston when award was rendered.

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**PARTIES TO DISPUTE:**

**RAILROAD YARDMASTERS OF AMERICA**

**THE ATCHISON, TOPEKA AND SANTA FE  
RAILWAY COMPANY (Eastern Lines)**

**STATEMENT OF CLAIM:** Claim and request of the Railroad Yardmasters of America that—

Yardmasters R. L. Bullard and C. E. Dawes, in seniority order as their seniority should have permitted them to work, be allowed one day at the appropriate yardmaster rate for December 10, 1960, and all subsequent dates until the condition is corrected, on account of the yardmaster's work at Ponca City, Oklahoma, being performed by others outside the scope of the Agreement, after the abolishment of the position at that point.

**EMPLOYES' STATEMENT OF FACTS:** Effective December 10, 1960, the position of Yardmaster at Ponca City, Oklahoma, was abolished, and thereafter the duties and responsibilities were absorbed and performed by others outside the scope of the Yardmasters' Agreement.

As a result Yardmaster R. L. Bullard became unassigned as yardmaster and was deprived of 6 days of yardmaster work as contemplated by the assignment.

Yardmaster Dawes was deprived of one day yardmaster work each week contemplated by relieving Yardmaster Bullard on his rest day.

**POSITION OF EMPLOYES:** The position of the Employees is evidenced by the exchange of correspondence in the handling of the dispute on the property, reproduced as follows:

[Letterhead of]

**RAILROAD YARDMASTERS OF AMERICA**

**(AFL-CIO)**

**"Santa Fe System Local Lodge No. 50**

611 S. Glenwood  
Independence, Missouri  
February 8, 1961

Mr. L. Cena, Superintendent  
AT & SF Railway Company  
Arkansas City, Kansas

Dear Sir:

The Railroad Yardmasters of America, Local Lodge No. 50, are presenting this letter as claim for the Yardmasters at Ponca City, Oklahoma due to the removal of the Yardmaster position at Ponca City and the work being handled by clerks and other personnel at that point.

Article 1, Section 1b of the Current Yardmaster's Agreement states that, 'other properly authorized representatives of the company including general Yardmasters referred to in Section 2a of this Article 1, may, incidental to their other duties, perform in any seniority district duties performed by Yardmasters so long as such performance does not result in the elimination of a Yardmaster's position.'

On December 10, 1960 the Yardmaster position at Ponca City, Oklahoma was abolished. We are not questioning the rights of the management to abolish position as Yardmaster as stated in our agreement but we are claiming this violation due to that abolishment being caused by other personnel doing Yardmaster work.

For December 10, 1960 and each subsequent day until this claim is settled and the position re-established we are claiming one day each date for R. L. Bullard and C. E. Daws in seniority order as their seniority should have permitted them to work in this time. Sufficient evidence in our possession proves that this work of yardmaster has been taken over by other crafts and is a direct violation of the Yardmaster's Agreement. We are in a position to present this evidence at any time that you wish to settle this claim to prove the point that we are making.

Please handle for payment and re-establishment of this Yardmaster position.

Yours truly,

/s/ E. P. Wine  
E. P. Wine,  
General Chairman

EPW:mbt

CC to Mr. R. L. Bullard  
112 Fairview  
Ponca City, Oklahoma

Mr. L. B. Mitchell  
1000 Poplar Avenue  
Arkansas City, Kansas"

[Letterhead of]  
THE ATCHISON, TOPEKA AND SANTA FE RAILWAY SYSTEM  
EASTERN LINES  
Office of Superintendent  
ARKANSAS CITY, KANSAS  
L. CENA, Superintendent  
"March 14, 1961  
TK 2788

Mr. E. P. Wine, General Chairman RYA  
611 South Glenwood  
Independence, Missouri

Dear Sir:

Your letter February 8, 1961, regarding the abolishment of position of yardmaster at Ponca City on December 10, 1960, in which you are making claim for one day each date for R. L. Bullard and C. E. Daws in seniority order as their seniority should have permitted them to work December 10, 1960 forward.

The fact that there was insufficient work for a yardmaster's position it was abolished, and the claims are respectfully declined.

Yours truly,  
/s/ L. Cena"

[Letterhead of]  
RAILROAD YARDMASTERS OF AMERICA  
(AFL-CIO)

"Santa Fe System Local Lodge No. 50

611 Glenwood Avenue  
Independence, Missouri  
April 20, 1961

Mr. L. M. Olson, General Manager  
AT&SF Railway Company  
Topeka, Kansas

Dear Sir:

I am appealing to you from the adverse decision of Superintendent Cena claims in favor of yardmasters R. L. Bullard, and C. E. Daws in seniority order as their seniority should have permitted them to work for one day each date beginning De-

ember 10, 1960 and all subsequent dates. These claims under Mr. Cenase file, TK 2788.

Effective November 10, 1960 the yardmaster position at Ponca City was eliminated and the work of yardmaster turned over to other crafts. This is a direct violation of Article I, Section 1b, of the current yardmasters agreement and evidence in our possession supports our claim for these days. I am enclosing copies of evidence that others besides yardmasters are performing the yardmaster work that was constantly and daily performed by the yardmaster class before the elimination of the yardmaster position. There are utterly reams of this data and more available each day proving the liability of management in this claim. Consequently we are expecting payment immediately and the reinstatement of the yardmaster position at Ponca City, Oklahoma. Note, sufficient evidence enclosed.

Yours truly,

/s/ E. P. Wine  
E. P. Wine,  
General Chairman

cc: Mr. L. Cena, Superintendent  
AT&SF Railway Company  
Arkansas City, Kansas

Mr. R. L. Bullard  
112 Fairview  
Ponca City, Oklahoma

Note: Mr. Cena Please note this appeal.

EPW/gac"

"EVIDENCE TO CONFIRM VIOLATION OF YARDMASTERS AGREEMENT AT PONCA CITY, OKLAHOMA AND SUBSTANTIATE CLAIMS.

611 Glenwood Avenue  
Independence, Missouri  
April 20, 1961

Mr. L. M. Olson, General Manager  
AT&SF Railway Company  
Topeka, Kansas

#### EVIDENCE IN PONCA CITY CASE FOLLOWS:

I am giving you here the substance of two wires sent by Mr. Bullard while he was working as yardmaster, in fact the last two wires he sent while in that position and then will follow with the wires and other data put out by others than the yardmaster craft, demonstrating completely the work of yardmaster being performed by others. The first two wires follows:

Yardmaster Lunday AC

ZY 12/10/60

Account of abolishing yardmasters at ZY, Bullard displaces Jacobs off position 204, Jacobs displaces Daws off of 212, Daws displaces Hill off position 214, Hill displaces Simmons off position 213. Simmons not declared at 10:30 P.M., will advise later, others notified and will protect.

/s/ Bullard

and

Yardmaster Lunday AC

ZY 12/10/60

DH on exa swman for 8:00 A.M. position 204 for five days December 12.

/s/ Bullard.

Now please note similarity and likeness following messages filed by others outside the yardmaster class and craft since December 10, 1960.

Ponca City, Okla.  
December 29, 1960  
Y.M.C.

DH one swman to protect 8:00 A. M. switch trick position 204, December 30, 1960, one day only.

/s/ G. L. Shumate''

On December 19, 1960, at 9:00 A. M. yard checker clerk Perry Carson gave instructions to crew of R. L. Bullard through Helper Frank Wilson with list attached instructing foreman Bullard to pull and spot Cities Service Oil Company and they wanted the two cars on wax spur at spots 2 and 3.

On January 4, 1961, at 9:00 A. M., agent G. L. Shumate instructed footboard yardmaster O. F. Boone at the Continental Oil Company, wanted two more coal cars set on coke track as soon as he could get there. Also instructed Boone to spot the City as soon as possible. On this same date at 12:45 P.M. car clerk McColgan came to the lead and instructed footboard yardmaster D. C. Jacobs that the dispatcher did not want to run an extra west until line up all Texas and Oklahoma City cars for train number 73 and A. M. Also on this same date car clerk McColgan instructed Bullard to switch east track setting out Santa Fe 53 to 94, and set one 40-foot box at dock, set coal car 1559 to wax spot and one conx on north spot. Also instructed to switch east slide south end setting out five cars and on a north side south end to switch seven cars setting out three cars and leaving four spotted plus setting six cars. Also gave instructions to switch 30 cars and spotting nine cars of this cut south end side one.

On January 5, 1961, agent Shumate gave instructions to switch crew to switch east track setting out one car and leaving box car and if any wax cars to spot, to switch east slide to south end setting out two loads leaving rest as spotted, switched west side leaving five as is with two out, set one at pit at south end. Gave

instructions to switch 30 cars south end track one. Gave instructions to switch BP spur setting out two loads and setting two emptys to spot one car for GSO. Gave instructions to switch rack number 4 setting out all cars switch rack 3 set out all except 2, total of 12 cars out.

9:00 A. M. on January 6, 1961, chief clerk G. C. Garrett instructed footboard yardmaster O. F. Boone that an extra west would be in at 9:15 with the Ponca City set out in two places in train and to have switch engine on hand to make switch on this train. Also on this date agent or his assistants gave instructions to engine crew to switch east track, one empty box out and set two conx wax cars. Instructed engine to switch east side south end a total of eight cars setting out four loads leaving balance set, also instructed engine to switch west side south end seven cars setting out five loads and set one pit at the south end. Instructed switch crew to set GP spur setting out two loads leaving Gatz 22989 and set Utl 55078 on spot number one and 53027 on spot number 2. To pull racks 4 and 5 and leave one rack one, pull all of rack 3. Instructed switchman to switch south end track one 30 cars.

On January 9, 1961, agent Shumate instructed switch crew to switch east track, switching out three loads setting back one car and set car wax on spot. Instructed the switch crew to switch east side south end switching out six loads of a total of eight cars. Instructed switch crew to switch west side of south end switching out four cars and setting one. Instructed switch crew to switch GP spur with IC 19237 load out and pull rack four switching out 11 cars and leaving 2 pull rack three switching out three cars leaving five and to leave rack five set. Also instructed switch crew to switch track one south end 30 cars. On this same date at 11:00 P. M. the clerk received the pull usually given to the yardmaster concerning the north end and instructed switch crew in switching which consistant of the west side at the north end switching 8 cars setting out 4 and leaving 4, and on the east side setting conx 711 and set 4-40 foot cars.

On January 10, 1961, agent and his forces instructed switch crew to leave east track as set and set one 1-40 foot box car at dock, and on the east side at the south end to switch out five of eight cars setting others back, and on the north side switching out five cars of seven and set one pit at south end. Instructed switch crew to switch number one track at south end 30 cars. Instructed switch crew to switch GP spur switching one car and set conx 5242 on number 2 spot and pull rack 4, 8 cars, rack 3 leave one south end 5 out and 2 to leave and rack, 1 empty out.

Also at 10:30 P. M. on that date clerk instructed switch crew to switch west track at north end switching out five of eight cars and set 5-40 foot cars.

On January 11, 1961, the agent and his forces instructed switch crews to switch east track, leave box car as is and C-1516 load out and to set two conx wax cars. Instructed crew to switch

east side south end, switching out 7 of 8 cars. Instructed switch crew to switch west side to south end, switching out four of 7 cars and re-spotting and setting 1210's.

On January 12, 1961, the agent and his forces instructed switch crew to switch track one at south end 30 cars, instructed switch crew to switch north end, west track switching out 50 of 7 cars and leaving two spotted, and switch north end east track pulling the ATX 70403, set 340 and 250. Instructed switch crew to leave GP spur as is and set UTLX 50331 and 50973 empty tanks, lube cars, and pull rack 3 four cars out and rack 4, 18 cars.

On January 13, 1961, agent and his forces instructed switch crew to switch track one at south end switching out 9 of 30 cars, pulled rack 4, 9 out and leave 3, switch east track TNO 60116 load out, and set one-40 foot box at dock, leave 54205 on south spot and set one conx on north spot. Also instructed switch crew to pull east side of south end 8 loads out and west side of south end 8 loads out and bad order 7030 empty tank out and spot 3 loads. Set three pits at south end and five 10's off extra west. Also on that date yard clerk at 8:25 P.M. instructed switch crew to switch west side at north end setting out empty box bad order and two loads out and leave four cars and pull one load out of east side at north end and set two-50's and one-40. Also one that date at 11:25 A.M. agent G. L. Shumate came to the switching lead and instructed switchman C. G. Boone to take conx 5242 UTLX 55056, two cars out of east trains and pick up and line up and delivery for Rock Island Railroad.

On January 16, 1961, agent Shumate and his forces instructed switch crew O. F. Boone to switch track one at south end, 30 cars, switching out 8 cars for the industries and spotting and pulling GP spur pulling GATX 69694 empty tank out. Pull rack one leave for south end at one out, pull rack 3, 3 cars out pull rack 4, switching out four of 9 cars to leave rack 5 as set. Also instructed switchman O. F. Boone to switch east side to south end switching out five loads and others back and north side of south end switching out 6 loads and setting one back, set one put at south end. On the same date clerk W. L. Gazaway called the candle plant of Continental Oil Company at 11:00 P.M. getting line up and lining up switchmen to pull this track. North end of west track switching out 4 cars and leaving 3 and set 150 and 3-40's foot on north end east track. Also on this date yard clerk C. C. Garrett at 4:00 P.M. called Clyde Springer at the Continental Oil Company and see switch list for switching of plant and instructed foreman as what to switching. On number one track set seventeen empty fuel, 7 empty continental propane, and pulled one load propane. On number 2 set emptys clean and eight empty fuel and three empty clean pull four loads propane. On number 3, 4 loads of CPG to pump out set on spots to pump out. On number 4, 5 loads of propane to leave and on number 5, 1 car to leave. Set two empty's Skelly propane, two EROX propane, 4 continental propane, and one 8000 double (conx 220). On this same date yard clerks made switch list and marked tracks for switching and instructed foreman in switching 29 cars off of

number 8 at the south end, 25 cars off number 2 at the south end, switch the pull from the Rock Island, gave him list of cars in yards to handle for extra trains. Also on this date instructed switch foreman to switch 21 cars off of number 7 at the south end with the list marked as to tracks where to place cars and switch number 4 rail at the north end pulling 3 of 6 cars.

On January 17, 1961, agent and his forces including clerks instructed switch foreman to switch 28 cars off of number 1 track at south end switching 4 cars to move to industries to spot, instructed engine foreman to leave GP spur as is and number 1 rack to leave, number 2 rack 5 out, number 3 rack leave 4, and switch out 2 cars, number 4 rack leave as is and number 5 rack 1 empty out. Also instructed switchmen to switch east track switching 2 loads out leaving rest as is, set 1-40 foot box at door C on south spot. Instructed foreman to switch east side to south end setting out six of 8 cars and instructed foreman to switch on west side of south end switching out 2 of 7 cars and set conx 7093 to south spot on east side and 3 at AP. At 11:00 P.M. yard clerk received bull from continental and instructed switch crew to switch west track at north end switching out 4 loads and one bad order empty and on east track at north end conx 709 empty tank out and set 3-40 foot and one-50 foot special.

On January 18, 1961, the agent and his forces instructed switch crew to switch number 1 track at south end the total of 30 cars switching 9 cars supplying list of cars to foreman, set GP leaving GP spur as is, pull rack 4, switching out 7 cars and leaving 10, switch rack 3 switching out 9 cars and leaving 6, and racks 1 and 2 leave as spotted. Instructed to switch east track leave box cars as is and switch out 5215 empty tank set one conx wax car on south spot and UTL 5342 on north spot. Switch east side of south end switching out 6 loads and one bad order empty and set 709 3 empty tank to rip. Instructed them to switch north side of south end 7050 leave at south end and 6 loads out set two pits at south end and see one 58 and six 10's at AP. Also on this date yard clerk received pull from Continental Oil Company instructed switch crew to switch north end of west track one load out and leave rest to set and set one-40 on north end east track.

On January 19, 1961, the yard clerk gave engine foreman instructions to switch north end of west track pulling 5 loads and leaving one car and setting 5-40's and one special on east track.

On January 20, 1961, agent and his forces instructed switch crew to switch track one at south end switching out 7 cars and 25 for industry spot. Instructed crew to leave GP spur as is, pull rack 4, setting out 2 cars, pull rack 3 setting out 2 cars, pull rack 5 one empty out. Also instructed crew to switch east track with two loads out and leave the rest set and set one-40 foot box at dock and conx empty on north wax spot, switched to east side south end pulling 5 loads leaving 3 cars set and switch west side to south end pulling 5 loads and leaving 2 and set 3 pits at the south end.



On January 25, 1961, clerk A. E. Hughes instructed engine foreman O. F. Boone to switch number 73 train and hold out the 2-50 foot boxes for wax loading on January 26, at Continental Oil Company. Also instructed crew to pull north end west track pulling out 5 cars and leaving 3 and pull one car north end east track and set 5-40 foot to leave number 5 open.

For one January 27, 1961, agent and his forces instructed switch crew to switch 30 cars off of number 1 track at south end to pulling and setting industries to leave GP spur as is, pull rack 4 with 5 out and leaving 2 cars pull rack 3 with 2 out and leaving 4 cars. Also instructed switch crew to switch and set east track pulling out one load to set 9816 back to dock and conx 1564 on wax, the east side of the south end pull 5 loads of 8 cars and set two at pit at south end. On the same date agent Shumate sent message to yardmaster at Ark City to deadhead at extra switchman for position 214 Midnight on that date one day only. Also deadhead one extra switchman for position 211, 4:00 P. M. Saturday for one day only. This work of calling crews, arranging for relief of crews as always been handled by yardmasters.

On March 3, 1961, agent Shumate sent wire to yardmaster to Ark City to deadhead one extra switchman for position 214 Midnight on that day one day only. Also sent request to deadhead one extra switchman for position 211, 4:00 P. M. Saturday one day only. This is yardmaster work.

On February 4, 1961, two wires were sent by K. F. Hill to the call boy and agent in Ponca City, one wire specified need engineer for 12 midnight job Sunday night. Job starts vacation will report. And the second wire D. L. Soloman released at Ponca City at 8:00 A. M. one day. These wires formerly handled the yardmasters assignment.

There is sufficient evidence listed here and others collected daily to substantiate our contention that yardmaster work is being done by other crafts and for this we expect immediate payment for same.

Yours truly,

/s/ E. P. Wine  
E. P. Wine,  
General Chairman

EPW/gac

Evidence presented to office of General Manager Olson under date of April 20, 1961.

E. P. Wine,  
General Chairman"

[Letterhead of]  
THE ATCHISON, TOPEKA AND SANTA FE  
RAILWAY COMPANY

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EASTERN LINES

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L. M. OLSON  
General Manager  
S. S. ROSE,  
Asst. to General Manager  
M. H. COBLE  
Asst. to General Manager  
HENRY SCHULTEIS, JR.,  
Asst. to General Manager

J. B. NOE,  
Asst. General Manager  
Eastern District  
J. E. LESTER,  
Asst. General Manager  
Western District

"Topeka, Kansas,  
April 26, 1961  
YM-20.5-100

Mr. E. P. Wine,  
General Chairman, R. Y. of A.,  
611 Glenwood Avenue,  
Independence, Missouri.

Dear Sir:

This will acknowledge receipt of your letter of April 20, claims of Oklahoma Division Yardmasters R. L. Bullard and C. E. Daws, December 10, 1960 forward.

After our investigation has been completed we will write you further.

Yours truly,

/s/ L. M. Olson"

[Letterhead of]  
THE ATCHISON, TOPEKA AND SANTA FE  
RAILWAY COMPANY  
EASTERN LINES

L. M. OLSON,  
General Manager  
S. S. ROSE,  
Assistant to General Manager  
M. H. COBLE,  
Assistant to General Manager  
HENRY SCHULTEIS, JR.,  
Assistant to General Manager

J. B. NOE,  
Asst. General Manager  
Eastern District  
J. E. LESTER,  
Asst. General Manager  
Western District

"Topeka, Kansas,  
June 12, 1961  
YM-20.5-100

Mr. E. P. Wine,  
General Chairman, R. Y. of A.,  
611 Glenwood Avenue  
Independence, Missouri.

Dear Sir:

Referring to your letter of April 20, claims of Yardmasters R. L. Bullard and C. E. Daws (should be Dawes) 'in seniority order as their seniority should have permitted them to work for one day each date beginning December 10, 1960 and all subsequent dates', Ponca City, Oklahoma:

These claims are not valid under Article V(a) of the Agreement of August 12, 1954:

Additionally, and without receding from the foregoing, it is desired to call attention to the fact there is only one engine on duty around the clock at Ponca City, each of which is and has been protected by a footboard yardmaster, and the work formerly performed by the yardmaster, not all of which was exclusive to those of the yardmaster craft, required only a small fraction of his time on duty. Therefore the carrier, in the exercise of its prerogative expressed in Section 1 (a) of Article I of the Agreement, made the determination that there was and is not now sufficient yardmaster work at Ponca City to justify maintaining the yardmaster position which was abolished effective December 10, 1960.

The claims are respectfully declined.

Yours truly,

/s/ L. M. Olson"

[Letterhead of]

RAILROAD YARDMASTERS OF AMERICA

(AFL-CIO)

"Santa Fe System LOCAL LODGE NO. 50

611 Glenwood Avenue  
Independence, Missouri  
June 28, 1961

Mr. L. D. Comer, Assistant Vice-President  
AT&SF Railway System  
80 E. Jackson Blvd.  
Chicago, Illinois

Dear Sir:

I am appealing to you for handling, claims of yardmasters R. L. Bullard, and C. E. Dawes, of Ponca City, Oklahoma, in seniority order as their seniority should have permitted them to work for one day each date beginning December 10, 1960, and all subsequent dates.

Mr. Olsons conjecture that these claims are not valid under Article V, (a) of the Agreement of August 12, 1954 are unjustified and puts management in the position of judgement.

Mr. Olson has also expressed the opinion that the volume of work the yardmaster class at Ponca City has deteriorated to the point where a yardmaster is not needed at that point but the evidence as presented to him and which I am including in this letter to you definitely proves that there is sufficient yardmaster work as done by the yardmaster craft alone at Ponca City in the past, remaining, and these claims are valid and are provable by the enclosed information and evidence. I might add that volumes of evidence are being collected each day and will be written up in the near future and forwarded to you on this claim. Please arrange for payment of these claims and the re-establishing of yardmaster position at Ponca City.

Yours truly,

/s/ E. P. Wine,  
E. P. Wine,  
General Chairman

cc: Mr. L. M. Olson, General Manager  
Mr. R. L. Bullard

Note: Mr. Olson, please note this appeal, of claim under your file, YM-20.5-100.

EPW/gac''

[Letterhead of]

THE ATCHISON, TOPEKA AND SANTA FE  
RAILWAY SYSTEM  
PERSONNEL DEPARTMENT

Railway Exchange, 80 East Jackson Blvd., Chicago 4

W. L. MORE  
Vice President  
L. D. COMER,  
Assistant Vice President  
A. D. STAFFORD  
Manager of Personnel

Assistant Managers of Personnel:  
R. J. VANDERZYL  
E. J. DROEGEMUELLER  
A. F. YOUNGBERG  
W. M. NOLAN  
L. P. RICKS

"June 30, 1961

170-1-2-39

Mr. E. P. Wine, Gen. Chairman  
Railroad Yardmasters of America  
611 Glenwood Avenue  
Independence, Missouri

Dear Sir:

This will acknowledge receipt of your letter of June 28, 1961 appealing claim in behalf of Yardmasters R. L. Bullard and C. E. Dawes, Ponca City, Oklahoma account alleged elimination of Yardmaster Position December 10, 1960.

After I have had an opportunity to obtain and review the facts in this claim, I shall communicate with you further.

Yours truly,

/s/ L. D. Comer"

[Letterhead of]

THE ATCHISON, TOPEKA AND SANTA FE

RAILWAY SYSTEM

PERSONNEL DEPARTMENT

Railway Exchange, 80 East Jackson Blvd., Chicago 4

W. L. MORE	Assistant Managers of Personnel:
Vice President	R. J. VANDERZYL
L. D. COMER	E. J. DROEGEMUELLER
Assistant Vice President	A. F. YOUNGBERG
A. D. STAFFORD	W. M. NOLAN
Manager of Personnel	L. P. RICKS

"August 16, 1961

170-1-2-39

Mr. E. P. Wine, General Chairman  
Railroad Yardmasters of America  
611 Glenwood Avenue  
Independence, Missouri

Dear Sir:

Yours June 28, in which you appeal from General Manager Olson's decision claim of Yardmaster R. L. Bullard and C. E. Dawes 'in seniority order as their seniority should have permitted them to work one day each date beginning December 10, 1960 and all subsequent dates' at Ponca City, Oklahoma.

I quite agree with all that contained in Mr. Olson's letter to you of June 12. You have failed to comply with the requirements of Article V(a) of the August 12, 1954 Agreement. This constitutes an irreparable defect in the claim sufficient in itself to deny same. In addition it is a fact that the work of yardmaster at Ponca City had declined to a point where the work of yardmaster remaining was insufficient to warrant its continuance. The agreement preserves to the carrier the right to establish, maintain and abolish yardmaster positions. As stated, there is not sufficient yardmaster work to justify 'maintaining' the 2:30 P. M. yardmaster position; hence it was 'abolished' on December 10, 1960.

Mr. Olson's decision is sustained; your claim is denied.

Yours truly,

/s/ L. D. Comer"

[Letterhead of]

RAILROAD YARDMASTERS OF AMERICA

(AFL-CIO)

"Santa Fe System Local Lodge No. 50

611 Glenwood Avenue  
Independence, Missouri  
August 12, 1961

Mr. L. D. Comer, Assistant Vice-President  
AT&SF Railway System  
80 E. Jackson Blvd.  
Chicago, Illinois

Dear Sir:

I would like to arrange at your convenience, conference on various claims for your office and following file numbers as per for your files:

170-1-2-36  
170-60-6  
170-1-3-6  
170-2-6-37  
170-1-2-35  
170-1-3-4  
170-1-3-5  
170-1-3-3  
170-1-2-34  
170-4-2-E

The above claims have been presented to you and denied by you and the following claims have been presented to you but as yet I have received no word on them except your recognition of claims but by the time the conference is set up there is possibility that there will be something on it and so we can possibly talk about the following claims also;

170-4-5-B-4

170-1-2-40

170-1-2-41

170-1-2-42

170-1-3-7

170-1-2-43

170-1-2-45

170-1-2-44

170-1-2-39

Please suggest a convenient date for conference on the above claims.

Yours truly,

/s/ E. P. Wine  
E. P. Wine,  
General Chairman

EPW/gac''

[Letterhead of]

THE ATCHISON, TOPEKA AND SANTA FE  
RAILWAY SYSTEM

PERSONNEL DEPARTMENT

Railway Exchange, 80 East Jackson Boulevard, Chicago 4

W. L. MORE  
Vice President

L. D. COMER  
Assistant Vice President

A. D. STAFFORD  
Manager of Personnel

Assistant Managers of Personnel:

R. J. VANDERZYL  
E. J. DROEGEMUELLER  
A. F. YOUNGBERG  
W. M. NOLAN  
L. P. RICKS

"August 22, 1961

Mr. E. P. Wine, General Chairman  
Railroad Yardmasters of America  
611 Glenwood Avenue  
Independence, Missouri

Dear Sir:

I have yours August 12 in which you request conference for the purpose of discussing the following claims, which I will merely identify by file numbers as you did in your letter:

170-1-2-36	170-4-5-B-4
170-60-6	170-1-2-40
170-1-3-6	170-1-2-41
170-2-6-37	170-1-2-42
170-1-2-35	170-1-3-7
170-1-3-4	170-1-2-43
170-1-3-5	170-1-2-45
170-1-3-3	170-1-2-44
170-1-2-34	170-1-2-39
170-4-2-E	

Both Mr. Vanderzyl (who will represent me if I cannot meet you personally) and I have been engaged to full capacity on other assignments. I have to suggest 10:00 A. M. Monday September 18, or if you prefer not to leave home on Sunday evening, Tuesday September 19 will do just as well.

Please advise.

Yours truly,

/s/ L. D. Comer"

[Letterhead of]

RAILROAD YARDMASTERS OF AMERICA

(AFL-CIO)

"Santa Fe System Local Lodge No. 50

611 Glenwood Avenue  
Independence, Missouri  
August 28, 1961.

Mr. L. D. Comer, Assistant Vice President  
AT & SF Railway System  
80 East Jackson Blvd.  
Chicago, Illinois



Dear Sir:

In regards to your letter of August 22, concerning mine of August 12 requesting conference on various cases before you for consideration.

I have other appointments for the 18th and 19th of September and cannot make it that week. I will be able to be there the following week if it is convenient for you. I would suggest September 26, 1961, if possible.

Please advise if this is satisfactory.

Yours Truly,

/s/ E. P. Wine  
E. P. Wine, General Chairman"

[Letterhead of]

THE ATCHISON, TOPEKA AND SANTA FE

RAILWAY SYSTEM

PERSONNEL DEPARTMENT

Railway Exchange, 80 East Jackson Boulevard, Chicago 4

W. L. MORE	Assistant Managers of Personnel:
Vice President	R. J. VANDERZYL
L. D. COMER	E. J. DROEGEMUELLER
Assistant Vice President	A. F. YOUNGBERG
A. D. STAFFORD	W. M. NOLAN
Manager of Personnel	L. P. RICKS

"August 31, 1961  
170-1-2-36

Mr. E. P. Wine, General Chairman  
Railroad Yardmasters of America  
611 Glenwood Avenue  
Independence, Missouri

Dear Sir:

Yours August 28 asking if 10:00 A.M. September 26, 1961 will be a satisfactory date for conference.

This date is all right with me.

Yours truly,

/s/ L. D. Comer"

[Letterhead of]  
RAILROAD YARDMASTERS OF AMERICA  
(AFL-CIO)  
"Santa Fe System LOCAL LODGE NO. 50

611 Glenwood Avenue  
Independence, Missouri  
September 26, 1961

Mr. L. D. Comer, Assistant Vice-President  
AT&SF Railway System  
80 E. Jackson Blvd.  
Chicago, Illinois

Dear Sir:

I have stated to you in my appeal of June 28, on claims of yardmasters R. L. Bullard and C. E. Dawes, of Ponca City, Oklahoma, which claim is now recognized under your letter of June 30, and your file, 170-1-2-39, I would send you further evidence as collected in the Ponca City, claims, following is that evidence.

On February 6, 1961, yard clerk Garrett, gave instructions to engine foreman Boone to pull and set Continental, pulling four loads out and setting one-40 ft., box at dock; 1 utlx steam car on five spot; and one caswell empty on north spot. Also instructed to set the east side at the south end and pull, pulling four loads and re-spotting two loads. Also instructed engine foreman Boone to switch five cars out of the south end with number one track and to pull and set GP, pulling one empty from GP spur, pulling three loads from rack number four leave at the south end and to leave the rest as set.

On February 7, 1961, yard clerk Garrett, instructed engine foreman Boone, to pull and set east track pulling 55143 a load and setting C1559 on south spot. Also instructed Boone to pull and set east side of the south end pulling two loads and leaving six cars. Instructed to pull and switch west side to south end pulling three loads and respotting three loads. Also instructed to set petroleum at south end 1-62 triple at AP and one Con size number 8 at AP. Yard clerk Garrett instructed engine foreman Boone to switch and set GP setting three cars at GP spur, pulling two cars from rack number 4 and two cars from number 3 rack. Instructed engine foreman Boone to switch six cars out of the south end of track 1 which was a total of 30 cars to switch.

On February 8, 1961, yard clerk Garrett, instructed engine foreman Boone to pull and set east track, to pull three loads out of west side at south end and respot, and to set one pit at the south end, one CONX size number 8 at AP and one utl size number 10 at AP. Also instructed engine foreman Boone to pull and set GP leaving GP spur as set, pull rack number four pulling three loads and respotting four, to pull all of rack number three. Also instructed engine foreman Boone to switch south end of track number one, switching out ten cars out of 30 if destination in this position on these cars.

On February 9, 1961, yardclerk Garrett instructed engine foreman Boone to switch GP pulling three cars out of GP spur and setting one car on number two spot; pulled number four rack pulling three loads out and leaving five cars and pulling number 1 rack one car and setting 21 cars. Also instructed engine foreman Boone to switch and set east track at south end pulling four cars and respotting four cars and to pull west side to south end and respot. Also to switch number 1 track at south end switching 7 cars out of 29.

On February 10, 1961, yardclerk Gassaway, instructed engine foreman Boone to pull west track pulling all four cars pull and set north end to the east track pulling one load and leaving three spotted to pull and set GP and to pull and set both east side south end and west side and south end switching cars out of south end number 1.

On February 13, 1961, yard clerk Garrett instructed engine foreman Boone to pull east side south end switching out four cars and respotting three cars. Also told engine foreman Boone to switch west side south end pulling three loads and leaving four. Instructed engine foreman Boone to switch number 1 track at south end switching five cars out of 26 cars. On this same date yard clerk Gassaway instructed engine foreman on 4:00 P. M. switch engine to switch south storage number 1 and long team track spotting Oklahoma Iron the mill and the west house. Also on same date instructed 4:00 P. M. switch engine to switch continental oil.

On February 14, 1961, yard clerk Garrett instructed engine foreman Boone to switch south end pulling three loads from east track and setting three cars back. Also instructed switch west side pulling two loads and respotting 7 cars. Instructed engine foreman Boone to switch number 1 track at south end switching six cars out of 30. Instructed engine foreman Boone to switch GP spur pulling one load and setting 2 cars. Pulled rack number 3 all of the cars and rack number 4 switched out 8 cars and respotted 1 and one empty out of number 1 rack. On the same date yard clerk Gassaway instructed the 4:00 P. M. engine to pull Continental 37 cars instructing switching and placement of cars for trains. Also to switch three cars out of south end of number 1 total of 19 cars. Instructed 4:00 P. M. engine to switch number 4 track south end switching out 14 cars for rip or Continental Oil and switch number 7 track at south end switching out 7 cars.

On February 15, 1961, yard clerk Gassaway instructed engine foreman Phillips in switching to switch number 1, 2, 3, and 4 at South End, and pulling and setting Continental Oil, switching out 24 cars and lining up for trains.

On February 16, 1961, yard clerk Garrett instructed engine foreman Boone to switch east side pulling two loads resetting one leaving balance set, switch west side pulling one empty tank bad order resetting 6 cars set two pits at south end. Also instructed engine foreman Boone to switch south end storage number 2 switching out 7 cars for Continental Oil. Instructed engine foreman to switch 6 cars out of south end of number 1 and to pull and set GP leaving GP spur pulling rack number 3 four loads

and rack number 4 ten loads. Also on this same date yard clerk Gassaway instructed engine foreman Phillips to switch south end of number 6 lining up 26 cars for various points including Continental Oil Company, Rock Island Railroad, Arkansas City, Blackwell, Oklahoma, and Tampa, Texas. Instructed engine foreman Phillips to pull Continental Oil pulling 30 cars and lining up for trains.

In the above evidence was given for the Month of February and to show that this condition still exists I will skip several months here to the month of May and the following evidence is from that time.

On May 12, 1961, at 10:55 A.M. cashier Roy Roll infringed upon the rights of the yardmaster by coming out of the freight house and instructing engine foreman O. F. Boone that the trailways needed a pull and spot so that they could load further cars. On this same date yard clerk Garrett instructed engine foreman Boone to switch east track at south end switching out three loads and respotting five cars and to switch west side to south end switching out 5 loads and respotting three cars. Also instructed engine foreman Boone to switch south end storage 1 switching 9 cars out of 30 and spotting at various industries.

On May 17, 1961, yard clerk Garrett instructed engine foreman Boone to switch south end of storage 1 switch out 8 cars out of 24. Instructed engine foreman Boone to switch and set east track at south end pulling four loads and respotting balance of cars and west side of south end pulling six loads and one empty and setting 8 cars.

On May 18, 1961, yard clerk Garrett instructed engine foreman Boone to switch south end of storage one switching 12 cars out of 29 and to pull and set east side and west side of south end pulling 13 cars and setting 6 cars.

On June 9, 1961, yard clerk Garrett instructed engine foreman Boone to switch south end of number one switching out 9 cars out of 30 and pulled one load from GP spur and two loads from GP proper. Also instructed engine foreman Boone to switch and set east tracks pulling 13 loads and respotting 11 cars.

On June 14, 1961, yard clerk Gassaway at 4:30 P. M. instructed engine foreman Phillips to pull and set Continental Oil pulling 54 cars and lining them up for trains south, north, and west and for the Rock Island Railroad and respotting Continental.

All of this work as presented was formally handled by yardmasters and is proof of the work being done by the others than yardmasters craft and actual work having been transferred from the yardmaster craft to the various other crafts. This is merely a summary of a few days involved in these claims and each day this work is being done continuously.

Yours truly,

/s/ E. P. Wine  
E. P. Wine,  
General Chairman

EPW/gac"

[Letterhead of]

THE ATCHISON, TOPEKA AND SANTA FE  
RAILWAY SYSTEM  
PERSONNEL DEPARTMENT

Railway Exchange, 80 East Jackson Boulevard, Chicago 4

W. L. MORE	Assistant Managers of Personnel:
Vice President	R. J. VANDERZYL
L. D. COMER	E. J. DROEGEMUELLER
Assistant Vice President	A. F. YOUNGBERG
A. D. STAFFORD	W. M. NOLAN
Manager of Personnel	L. P. RICKS

"October 13, 1961  
170-1-2-39

Mr. E. P. Wine, General Chairman  
Railroad Yardmasters of America  
611 Glenwood Avenue  
Independence, Missouri

Dear Sir:

Among the cases we discussed in conference in my office September 26 was your claim in behalf of Yardmaster R. L. Bullard and C. E. Dawes 'in seniority order as their seniority should have permitted them to work one day each date December 10, 1960 and all subsequent dates' at Ponca City.

It is your contention that the carrier erroneously abolished the position of yardmaster at this point and that others are doing 'yardmaster' work in an amount to warrant continuance of a yardmaster position. It continues to be the carrier's position that there is not sufficient work to justify maintaining the 2:30 P. M. yardmaster position. For the reasons explained, my denial of the claim as contained in mine of August 16, 1961 is confirmed.

Yours truly,

/s/ L. D. Comer"

[Letterhead of]

THE ATCHISON, TOPEKA AND SANTA FE  
RAILWAY SYSTEM  
PERSONNEL DEPARTMENT

Railway Exchange, 80 East Jackson Boulevard, Chicago 4

W. L. MORE	Assistant Managers of Personnel:
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A. D. STAFFORD	W. M. NOLAN
Manager of Personnel	L. P. RICKS

"January 25, 1962

170-60-6	170-1-2-41
170-1-2-39	170-1-2-44
170-1-3-7	170-1-2-42
170-1-2-40	170-2-2-35

Mr. E. P. Wine, General Chairman (8)  
 Railroad Yardmasters of America  
 611 Glenwood Avenue  
 Independence, Missouri

Dear Sir:

I have yours January 17 dealing with so many matters and so many files I have had some difficulty getting the files into proper grouping.

Taking the first group: I want to remind you there is no 'automatic 60 day extension'. Each extension must be properly negotiated.

It seems you are a little premature on most of these cases because the expiration date is presently the latter part of March, but rather than prolong the correspondence I am agreeable to a 60-day extension with respect to the eight cases in this group and will list them as follows:

Our File	Brief Description of Claimants	Present Expiration Date	Hereby Extended To
170-60-6	Woolson, Meehan (Los Angeles)	2-7-62	4-8-62
170-1-2-39	Bullard, Dawes (Ponca City)	2-16-62	4-17-62
170-1-3-7	L. C. Smith (Kansas City)	3-25-62	5-24-62
170-1-2-40	Heaton (Chanute)	3-25-62	5-24-62
170-1-2-41	Hanson, Heaton (Chanute)	3-25-62	5-24-62
170-1-2-44	Various Yardmasters (Newton)	3-25-62	5-24-62
170-1-2-42	Saunders (Kansas City)	3-25-62	5-24-62
170-1-2-35	Sullivan (Streator)	2-1-62	4-2-62

I will make separate replies to cover the remaining portions of your letter.

Yours truly,

/s/ L. D. Comer"

The evidence contained in the correspondence reproduced hereinbefore clearly indicates that the work formerly performed by the yardmaster, has been farmed out to the Agent and others, such as Cashier, Chief Clerks and Clerks.

Awards too numerous to mention rendered by this and other Divisions have definitely established that work once embraced in an Agreement may not be removed therefrom without violating the Agreement.

There is no basis whatever for the contention of the Carrier that the claim as made did not comply with the requirements of Article V of the August 12, 1954, Agreement, it being specific in all details.

All data used in support of this claim has been presented to the management and made a part of the particular question in dispute. Claim should be sustained.

**CARRIER'S STATEMENT OF FACTS:** At Ponca City, Oklahoma, prior to December 11, 1960 there were three yard engine assignments in effect, one on each shift, each protected by an engine foreman receiving the so-called footboard yardmaster differential, going on duty at 8:00 A. M., 4:00 P. M. and 12:00 P. M. There was also one yardmaster position assigned, daily except Sunday, going on duty at 2:30 P. M.

As a result of decrease in the amount of supervision required, there being only one yard engine around the clock in service, effective with the close of work December 10, 1960 the 2:30 P. M. yardmaster position was abolished. R. L. Bullard, theretofore assigned as yardmaster, displaced as engine foreman on the 8:00 A. M. yard engine assignment, while C. E. Dawes, formerly regularly assigned as engine foreman on the 12:00 P. M. yard engine and holding a yardmaster's seniority date junior to Bullard, displaced as helper on the 12:00 P. M. yard engine assignment.

Claim reading as follows dated February 8, 1961 was received by the Carrier's Superintendent at Arkansas City, Kansas from General Chairman Wine:

"611 S. Glenwood  
Independence, Mo  
February 8, 1961

Mr. L. Cena, Superintendent  
AT&SF Railway Company  
Arkansas City, Kansas

Dear Sir:

The Railroad Yardmasters of America, Local Lodge No. 50, are presenting this letter as claim for the Yardmasters at Ponca City, Oklahoma due to the removal of the Yardmaster position at Ponca City and the work being handled by clerks and other personnel at that point.

Article 1, Section 1b of the Current Yardmaster's Agreement states that, 'other properly authorized representatives of the company including general Yardmasters referred to in Section 2a of this Article 1, may, incidental to their other duties, perform in any seniority district duties performed by Yardmasters so long as such performance does not result in the elimination of a Yardmaster's position.'

On December 10, 1960, the Yardmaster position at Ponca City, Oklahoma was abolished. We are not questioning the rights of the management to abolish position as Yardmaster as stated in our agreement but we are claiming this violation due to that abolishment being caused by other personnel doing Yardmaster work.

For December 10, 1960 and each subsequent day until this claim is settled and the position re-established we are claiming one day each date for R. L. Bullard and C. E. Daws in seniority order as their seniority should have permitted them to work in this time. Sufficient evidence in our possession proves that this work of Yardmaster has been taken over by other crafts and is a direct violation of the Yardmasters' Agreement. We are in a position to present this evidence at any time that you wish to settle this claim to prove the point that we are making.

Please handle for payment and re-establishment of this Yardmaster position.

Yours truly,

/s/ E. P. Wine,  
E. P. Wine, General Chairman"

Superintendent Cena declined the claim in letter dated March 14, 1961 as follows:

"March 14, 1961  
TK-2788

Mr. E. P. Wine, General Chairman RYA  
611 South Glenwood  
Independence, Missouri

Dear Sir:

Your letter February 8, 1961, regarding the abolishment of position of yardmaster at Ponca City on December 10, 1960, in which you are making claim for one day each date for R. L. Bullard and C. E. Daws in seniority order as their seniority should have permitted them to work December 10, 1960 forward.

The fact that there was insufficient work for a yardmaster's position it was abolished, and the claims are respectfully declined.

Yours truly,

/s/ L. Cena"

General Chairman Wine then appealed from Mr. Cena's decision in letter dated April 20, 1961 to the Carrier's General Manager, L. M. Olson, which is reproduced below:



"611 Glenwood Avenue  
Independence, Missouri  
April 20, 1961

Mr. L. M. Olson, General Manager  
AT&SF Railway Company  
Topeka, Kansas

Dear Sir:

I am appealing to you from the adverse decision of Superintendent Cena claims in favor of yardmasters R. L. Bullard, and C. E. Daws in seniority order as their seniority should have permitted them to work for one day each date beginning December 10, 1960 and all subsequent dates. These claims under Mr. Cen's file, TK 2788.

Effective November 10, 1960 the yardmaster position at Ponca City was eliminated and the work of yardmaster turned over to other crafts. This is a direct violation of Article I, Section 1b, of the current yardmasters agreement and evidence in our possession supports our claim for these days. I am enclosing copies of evidence that others besides yardmasters are performing the yardmaster work that was constantly and daily performed by the yardmaster class before the elimination of the yardmaster position. There are utterly reams of this data and more available each day proving the liability of management in this claim. Consequently we are expecting payment immediately and the re-establishment of the yardmaster position at Ponca City, Oklahoma. Note, sufficient evidence enclosed.

Yours truly,

/s/ E. P. Wine  
E. P. Wine,  
General Chairman

cc: Mr. L. Cena, Superintendent  
AT&SF Railway Company  
Arkansas City, Kansas

Mr. R. L. Bullard  
112 Fairview  
Ponca City, Oklahoma

Note: Mr. Cena Please note this appeal."

"Sunday ) Ark City  
Chief Dispr)

10-15-60  
Ponca City

After Panhandle runs have to move

East  
7 Spl  
5 Mty

---

12 cars 601 tons

West  
 5 spl Texas  
 1 x T Texas  
 1 Midds 1808  
 1 co oil 1808

---

8 cars 488 tons

for no 73 - 1 scrap - 1776

G. L. Shumate"

---

"Sunday ) Ark City  
 Chief Dispr)

12-14-60  
 Ponca City

Have to move after PanHandle Runs

East  
 3 spl  
 3 Mty

---

6 cars 290 tons

West  
 17 spl Tex  
 1 x B Tex  
 2 Midds

1808

---

20 cars 1520 tons

G. L. Shumate"

---

The foregoing are merely copies of wires furnished the trainmaster ("Lunday" rather than "Sunday") and Chief Dispatcher by the agent at Ponca City showing certain information as to cars remaining in the yard. While General Chairman Wine furnished copies of some twenty-two additional such wires, we will not burden the record with the complete list submitted by Mr. Wine.

The following was also submitted as an attachment to General Chairman Wine's formal appeal letter of April 20, 1961 addressed to General Manager Olson, hereinabove quoted:

**"EVIDENCE TO CONFIRM VIOLATION OF YARDMASTERS  
 AGREEMENT AT PONCA CITY, OKLAHOMA  
 AND SUBSTANTIATE CLAIMS.**

611 Glenwood Avenue  
 Independence, Missouri  
 April 20, 1961

Mr. L. M. Olson, General Manager  
AT&SF Railway Company  
Topeka, Kansas

EVIDENCE IN PONCA CITY CASE FOLLOWS:

I am giving you here the substance of two wires sent by Mr. Bullard while he was working as yardmaster, in fact the last two wires he sent while in that position and then will follow with the wires and other data put out by others than the yardmaster craft, demonstrating completely the work of yardmaster being performed by others. The first two wires follows;

Yardmaster Lunday AC

ZY 12/10/60

Account of abolishing yardmasters at ZY, Bullard displaces Jacobs off position 204, Jacobs displaces Daws off of 212, Daws displaces Hill off position 214, Hill displaces Simmons off position 213. Simmons not declared at 10:30 P. M., will advise later, others notified and will protect.

/s/ Bullard

and

Yardmaster Lunday AC

ZY 12/10/60

DH on exa swman for 8:00 A. M. position 204 for five days December 12.

/s/ Bullard.

Now please note similarity and likeness following messages filed by others outside the yardmaster class and craft since December 10, 1960.

Ponca City, Okla  
December 29, 1960  
Y.M.C.

DH one swman to protect 8:00 A. M. switch trick position 204, December 30, 1960, one day only.

/s/ G. L. Shumate

On December 19, 1960, at 9:00 A. M. yard checker clerk Perry Carson gave instructions to crew of R. L. Bullard through helper Frank Wilson with list attached instructing forman Bullard to pull and spot Cities Service Oil Company and they wanted the two cars on wax spur at spots 2 and 3.

On January 4, 1961, at 9:00 A. M., agent G. L. Shumate instructed footboard yardmaster O. F. Boone at the Continental Oil Company, wanted two more coal cars set on coke track as soon as he could get there. Also instructed Boone to spot the City as soon as possible. On this same date at 12:45 P. M. car clerk

McColgan came to the lead and instructed footboard yardmaster D. C. Jacobs that the dispatcher did not want to run an extra west until line up all Texas and Oklahoma City cars for train number 73 and A. M. Also on this same date car clerk McColgan instructed Bullard to switch east track setting out Santa Fe 53 to 94, and set one 40 foot box at dock, set coal car 1559 to wax spot and one conx on north spot. Also instructed to switch east slide south end setting out five cars and on a north side south end to switch seven cars setting out three cars and leaving four spotted plus setting six cars. Also gave instructions to switch 30 cars and spotting nine cars of this cut south end side one.

On January 5, 1961, agent Shumate gave instructions to switch crew to switch east track setting out one car and leaving box car and if any wax cars to spot, to switch east slide to south end setting out two loads leaving rest as spotted, switched west side leaving five as is with two out, set one at pit at south end. Gave instructions to switch 30 cars south end track one. Gave instructions to switch BP spur setting out two loads and setting two emptys to spot one car for CSO. Gave instructions to switch rack number 4 setting out all cars switch rack 3 set out all except 2, total of 12 cars out.

9:00 A. M. on January 6, 1961, chief clerk C. C. Garrett instructed footboard yardmaster O. F. Boone that an extra west would be in at 9:15 with the Ponca City set out in two places in train and to have switch engine on hand to make switch on this train. Also on this date agent or his assistants gave instructions to engine crew to switch east track, one empty box out and set two conx wax cars. Instructed engine to switch east side south end a total of eight cars setting out four loads leaving balance set, also instructed engine to switch west side south end seven cars setting out five loads and set one pit at the south end. Instructed switch crew to set GP spur setting out two loads leaving Gatx 22989 and set Utl 55078 on spot number one and 53027 on spot number 2. To pull racks 4 and 5 and leave one one rack one, pull all of rack 3. Instructed switchman to switch south end track one 30 cars.

On January 9, 1961, agent Shumate instructed switch crew to switch east track, switching out three loads setting back one car and set car wax on spot. Instructed the switch crew to switch east side south end switching out six loads of a total of eight cars. Instructed switch crew to switch west side of south end switching out four cars and setting one. Instructed switch crew to switch GP spur with IC 19237 load out and pull rack four switching out 11 cars and leaving 2 pull rack three switching out three cars leaving five and to leave rack five set. Also instructed switch crew to switch track one south end 30 cars. On this same date at 11:00 P. M. the clerk received the pull usually given to the yardmaster concerning the north end and instructed switch crew in switching which consistent of the west side at the north end switching 8 cars setting out 4 and leaving 4, and on the east side setting conx 711 and set 4-40 foot cars.

On January 10, 1961, agent and his forces instructed switch crew to leave east track as set and set one 1-40 foot box car at dock, and on the east side at the south end to switch out five of eight cars setting others back, and on the north side switching out five cars of seven and set one pit at south end. Instructed switch crew to switch number one track at south end 30 cars. Instructed switch crew to switch GP spur switching one car and set conx 5242 on number 2 spot and pull rack 4, 8 cars, rack 3 leave one south end 5 out and 2 to leave and rack, 1 empty out.

Also at 10:30 P. M. on that date clerk instructed switch crew to switch west track at north end switching out five of eight cars and set 5-40 foot cars.

On January 11, 1961, the agent and his forces instructed switch crews to switch east track, leave box car as is and C1516 load out and to set two conx wax cars. Instructed crew to switch east side south end, switching out 7 of 8 cars. Instructed switch crew to switch west side to south end, switching out four of 7 cars and re-spotting and setting 1210's.

On January 12, 1961, the agent and his forces instructed switch crew to switch track one at south end 30 cars, instructed switch crew to switch north end, west track switching out 5 of 7 cars and leaving two spotted, and switch north and east track pulling the ATX 70403, set 340 and 250. Instructed switch crew to leave GP spur as is and set UTLX 50331 and 50973 empty tanks, lube cars, and pull rack 3 four cars out and rack 4, 18 cars.

On January 13, 1961, agent and his forces instructed switch crew to switch track one at south end switching out 9 of 30 cars, pulled rack 4, 9 out and leave 3, switch east track TNO 60116 load out, and set one-40 foot box at dock, leave 54205 on south spot and set one conx on north spot. Also instructed switch crew to pull east side of south end 8 loads out and west side of south end 8 loads out and bad order 7030 empty tank out and spot 3 loads. Set three pits at south end and five 10's off extra west. Also on that date yard clerk at 8:25 P. M. instructed switch crew to switch west side at north end setting out empty box bad order and two loads out and leave four cars and pull one load out of east side at north end and set two-50's and one-40. Also one that date at 11:25 A. M. agent G. L. Shumate came to the switching lead and instructed switchman O. G. Boone to take conx 5242 UTLX 55066, two cars out of east trains and pick up and line up and delivery for Rock Island Railroad.

On January 16, 1961, agent Shumate and his forces instructed switch crew O. F. Boone to switch track one at south end, 30 cars, switching out 8 cars for the industries and spotting and pulling GP spur pulling GATX 69694 empty tank out. Pull rack one leave for south end at one out, pull rack 3, 3 cars out pull rack 4, switching out four of 9 cars to leave rack 5 as set. Also instructed switchman O. F. Boone to switch east side to south end switching out five loads and others back and north side of south and switching 6 loads and setting one back, set one put at

south end. On the same date clerk W. L. Gazaway called the candle plant of Continental Oil company at 11:00 P.M. getting line up and lining up switchmen to pull this track. North end of west track switching out 4 cars and leaving 3 and set 150 and 3-40's foot on north end east track. Also on this date yard clerk C. C. Garrett at 4:00 P.M. called Clyde Springer at the Continental Oil Company and see switch list for switching of plant and instructed foreman as what to switching. On Number one track set seventeen empty fuel, 7 empty continental propane, and pulled one load propane. On number 2 set emptys clean and eight empty fuel and three empty clean pull four loads propane. On number 3, 4 loads of CPG to pump out set on spots to pump out. On number 4, 5 loads of propane to leave and on number 5, 1 car to leave. Set two empty's Skelly propane, two EROX propane, 4 continental propane, and one 8000 double (conx 220). On this same date yard clerks made switch list and marked tracks for switching and instructed foreman in switching 29 cars off of number 8 at the south end, 25 cars off number 2 at the south end, switched the pull from the Rock Island, gave him list of cars in yards to handle for extra trains. Also on this date instructed switch foreman to switch 21 cars off of number 7 at the south end with the list marked as to tracks where to place cars and switch number 4 rail at the north end pulling 3 of 6 cars.

On January 17, 1961, agent and his forces including clerks instructed switch formen to switch 28 cars off of number 1 track at south end switching 4 cars to move to industries to spot, instructed engine foreman to leave GP spur as is and number 1 rack to leave, number 2 rack 5 out, number 3 rack leave 4, and switch out 2 cars, number 4 rack leave as is and number 5 rack 1 empty out. Also instructed switchmen to switch east track switching 2 loads out leaving rest as is, set 1-40 foot box at door C on south spot. Instructed foreman to switch east side to south end setting out six of 8 cars and instructed foreman to switch on west side of south and switching out 2 of 7 cars and set conx 7093 to south spot on east side and 3 at AP. At 11:00 P.M. yard clerk received bull from continental and instructed switch crew to switch west track at north end switching out 4 loads and one bad order empty and on east track at north and conx 709 empty tank out and set 3-40 foot and one-50 foot special.

On January 18, 1961, the agent and his forces instructed switch crew to switch number 1 track at south end the total of 30 cars switching 9 cars supplying list of cars to foreman, set GP leaving GP spur as is, pull rack 4, switching out 7 cars and leaving 10, switch rack 3 switching out 9 cars and leaving 6, and racks 1 and 2 leave as spotted. Instructed to switch east track leave box cars as is and switch out 5215 empty tank set one conx wax car on south spot and UTL 5342 on north spot. Switch east side of south end switching out 6 loads and one bad order empty and set 709 3 empty tank to rip. Instructed them to switch north side of south end 7050 leave at south end and 6 loads out set two pits at south end and see one 58 and six 10's at AP. Also on this date yard clerk received pull from Continental Oil company instructed switch crew to switch north end of west track

one load out and leave rest to set and set one-40 on north end east track.

On January 19, 1961, the yard clerk gave engine foreman instructions to switch north end of west track pulling 5 loads and leaving one car and setting 5-40's and one special on east track.

On January 20, 1961, agent and his forces instructed switch crew to switch track one at south end switching out 7 cars and 25 for industrie spot. Instructed crew to leave GP spur as is, pull rack 4, setting out 2 cars, pull rack 3 setting out 2 cars, pull rack 5 one empty out. Also instructed crew to switch east track with two loads out and leave the rest set and set one-40 foot box at dock and conx empty on north wax spot, switched to east side south end pulling 5 loads leaving 3 cars set and switch west side to south end pulling 5 loads and leaving 2 and set 3 pits at the south end.

On January 25, 1961, clerk A. E. Hughes instructed engine foreman O. F. Boone to switch number 73 train and hold out the 2-50 foot boxes for wax loading on January 26, at Continental Oil Company. Also instructed crew to pull north end west track pulling out 5 cars and leaving 3 and pull one car north end east track and set 5-40 foot to leave number 5 open.

For one January 27, 1961, agent and his forces instructed switch crew to switch 30 cars off of number 1 track at south end to pulling and setting industries to leave GP spur as is, pull rack 4 with 5 out and leaving 2 cars pull rack 3 with 2 out and leaving 4 cars. Also instructed switch crew to switch and set east track pulling out one load to set 9816 back to dock and conx 1564 on wax, the east side of the south end pull 5 loads of 8 cars and set two at pit at south end. On the same date agent Shumate sent message to yardmaster at Ark City to deadhead at extra switchman for position 214 Midnight on that date one day only. Also deadhead one extra switchman for position 211, 4:00 P. M. Saturday for one day only. This work of calling crews, arranging for relief of crews as always been handled by yardmasters.

On March 3, 1961, agent Shumate sent wire to yardmaster to Ark City to deadhead one extra switchman for position 214 Midnight on that day one day only. Also sent request to deadhead one extra switchman for position 211, 4:00 P. M. Saturday one day only. This is yardmaster work.

On February 4, 1961, two wires were sent to K. F. Hill to the call boy and agent in Ponca City, one wire specified need engineer for 12 midnight job Sunday night. Job starts vacation will report. And the second wire D. L. Solomon released at Ponca City at 8:00 A. M. one day. These wires formerly handled the yardmasters assignment.

There is sufficient evidence listed here and others collected daily to substantiate our contention that yardmaster work is being

done by others crafts and for this we expect immediate payment for same.

Yours truly,

/s/ E. P. Wine  
E. P. Wine, General Chairman

EPW/gas

Evidence presented to office of General Manager Olson under date of April 20, 1961.

E. P. Wine,  
General Chairman''

Mr. Olson declined the appeal in letter dated June 12, 1961, which is reproduced below:

“June 12, 1961  
YM-20.5-100

Mr. E. P. Wine,  
General Chairman, R. Y. of A.,  
611 Glenwood Avenue,  
Independence, Missouri.

Dear Sir:

Referring to your letter of April 20, claims of Yardmasters R. L. Bullard and C. E. Daws (should be Dawes) “in seniority order as their seniority should have permitted them to work for one day each date beginning December 10, 1960 and all subsequent dates”, Ponca City, Oklahoma:

These claims are not valid under Article V(a) of the Agreement of August 12, 1954:

Additionally, and without receding from the foregoing, it is desired to call attention to the fact there is only one engine on duty around the clock at Ponca City, each of which is and has been protected by a footboard yardmaster, and the work formerly performed by the yardmaster craft, required only a small fraction of his time on duty. Therefore the carrier, in the exercise of its prerogative expressed in Section 1(a) of Article I of the Agreement, made the determination that there was and is not now sufficient yardmaster work at Ponca City to justify maintaining the yardmaster position which was abolished effective December 10, 1960.

The claims are respectfully declined.

Yours truly,

/s/ L. M. Olson''



General Chairman Wine then appealed the case to the final appeal officer of the Carrier, Mr. L. D. Comer, Assistant Vice President, Chicago, Illinois, in letter dated June 28, 1961, as follows:

“611 Glenwood Avenue  
Independence, Missouri  
June 28, 1961

Mr. L. D. Comer, Assistant Vice-President  
AT&SF Railway System  
80 E. Jackson Blvd.  
Chicago, Illinois

Dear Sir:

I am appealing to you for handling, claims of yardmasters R. L. Bullard, and C. E. Dawes, of Ponca City, Oklahoma, in seniority order as their seniority should have permitted them to work for one day each date beginning December 10, 1960, and all subsequent dates.

Mr. Olsons conjecture that these claims are not valid under Article V, (a) of the Agreement of August 12, 1954 are unjustified and puts management in the position of judgement.

Mr. Olson has also expressed the opinion that the volume of work the yardmaster class at Ponca City has deteriorated to the point where a yardmaster is not needed at that point but the evidence as presented to him and which I am enclosing in this letter to you definitely proves that there is sufficient yardmaster work as done by the yardmaster craft alone at Ponca City in the past, remaining, and these claims are valid and are provable by the enclosed information and evidence. I might add that volumes of evidence are being collected each day and will be written up in the near future and forwarded to you on this claim. Please arrange for payment of these claims and the re-establishing of yardmaster position at Ponca City.

Yours truly,

/s/ E. P. Wine,  
E. P. Wine, General Chairman

cc: Mr. L. M. Olson, General Manager  
Mr. R. L. Bullard

Note: Mr. Olson, please note this appeal, of claim under your file, YM-20.5-100.”

The “evidence as presented to him and which I am enclosing in this letter to you” as referred to in the last paragraph of the next above-quoted letter apparently was a copy of the attachments accompanying General Chairman Wine’s appeal letter of April 20, 1961 to General Manager Olson, hereinabove quoted, and for brevity not here repeated.

Mr. Comer declined the appeal, as presented, in letter dated August 16, 1961, as follows:

"August 16, 1961  
170-1-2-39

Mr. E. P. Wine, General Chairman  
Railroad Yardmasters of America  
611 Glenwood Avenue  
Independence, Missouri

Dear Sir:

Yours June 28, in which you appeal from General Manager Olson's decision claim of Yardmaster R. L. Bullard and C. E. Dawes "in seniority order as their seniority should have permitted them to work one day each date beginning December 10, 1960 and all subsequent dates" at Ponca City, Oklahoma.

I quite agree with all that contained in Mr. Olson's letter to you of June 12. You have failed to comply with the requirements of Article V(a) of the August 12, 1954 Agreement. This constitutes an irreparable defect in the claim sufficient in itself to deny same. In addition it is a fact that the work of yardmaster at Ponca City had declined to a point where the work of yardmaster remaining was insufficient to warrant its continuance. The agreement preserves to the carrier the right to establish, maintain and abolish yardmaster positions. As stated, there is not sufficient yardmaster work to justify "maintaining" the 2:30 P. M. yardmaster position; hence it was "abolished" on December 10, 1960.

Mr. Olson's decision is sustained; your claim is denied.

Yours truly,

/s/ L. D. Comer  
L. D. Comer"

General Chairman Wine again wrote Mr. Comer on this matter under date of September 26, 1961:

"611 Glenwood Avenue  
Independence, Missouri  
September 26, 1961

Mr. L. D. Comer, Assistant Vice-President  
AT&SF Railway System  
80 E. Jackson Blvd.  
Chicago, Illinois

Dear Sir:

I have stated to you in my appeal of June 28, on claims of yardmasters R. L. Bullard and C. E. Dawes, of Ponca City, Oklahoma, which claim is now recognised under your letter of June 30, and your file, 170-1-2-39, I would send you further evidence as collected in the Ponca City, claims, following is that evidence.

On February 6, 1961, yardclerk Garrett, gave instructions to engine foreman Boone to pull and set Continental, pulling four loads out and setting one 40ft., box at dock; 1 utilx steam car on five spot; and one caswell empty on north spot. Also instructed to set the east side at the south end and pull, pulling four loads and re-spotting two loads. Also instructed engine foreman Boone to switch five cars out of the south end with number one track and to pull and set GP, pulling one empty from GP spur, pulling three loads from rack number four leave at the south end and to leave the rest as set.

On February 7, 1961, yardclerk Garrett, instructed engine foreman Boone, to pull and set east track pulling 55143 a load and setting C1559 on south spot. Also instructed Boone to pull and set east side of the south end pulling two loads and leaving six cars. Instructed to pull and switch west side to south end pulling three loads and respotting three loads. Also instructed to set petroleum at south end 1-62 triple at AP and one Con size number 8 at AP. Yardclerk Garrett instructed engine foreman Boone to switch and set GP setting three cars at GP spur, pulling two cars from rack number 4 and two cars from number 3 rack. Instructed engine foreman Boone to switch six cars out of the south end of track 1 which was a total of 30 cars to switch.

On February 8, 1961, yardclerk Garrett, instructed engine foreman Boone to pull and set east track, to pull three loads out of west side at south end and respot, and to set one pit at the south end, one CONX size number 8 at AP and one util size number 10 at AP. Also instructed engine foreman Boone to pull and set GP leaving GP spur as set, pull rack number four pulling three loads and respotting four, to pull all of rack number three. Also instructed engine foreman Boone to switch south end of track number one, switching out ten cars out of 30 if destination in this position on these cars.

On February 9, 1961, yardclerk Garrett instructed engine foreman Boone to switch GP pulling three cars out of GP spur and setting one car on number two spot; pulled number four rack pulling three loads out and leaving five cars and pulling number 1 rack one car and setting 21 cars. Also instructed engine foreman Boone to switch and set east track at south end pulling four cars and respotting four cars and to pull west side to south end and respot. Also to switch number 1 track at south end switching 7 cars out of 29.

On February 10, 1961, yardclerk Gassaway, instructed engine foreman Boone to pull west track pulling all four cars pull and set north end to the east track pulling one load and leaving three spotted to pull and set GP and to pull and set both east side south end and west side and south end switching cars out of south end number 1.

On February 13, 1961, yardclerk Garrett instructed engine foreman Boone to pull east side south end switching out four cars and respotting three cars. Also told engine foreman Boone

to switch west side south end pulling three loads and leaving four. Instructed engine foreman Boone to switch number 1 track at south end switching five cars out of 26 cars. On this same date yardclerk Gassaway instructed engine foreman on 4:00 P. M. switch engine to switch south storage number 1 and long team track spotting Oklahoma Iron the mill and the west house. Also on same date instructed 4:00 P. M. switch engine to switch continental oil.

On February 14, 1961, yardclerk Garrett instructed engine foreman Boone to switch south end pulling three loads from east track and setting three cars back. Also instructed switch west side pulling two loads and respotting 7 cars. Instructed engine foreman Boone to switch number 1 track at south end switching six cars out of 30. Instructed engine foreman Boone to switch GP spur pulling one load and setting 2 cars. Pulled rack number 3 all of the cars and rack number 4 switched out 8 cars and respotted 1 and one empty out of number 1 rack. On the same date yardclerk Gassaway instructed the 4:00 P. M. engine to pull Continental 37 cars instructing switching and placement of cars for trains. Also to switch three cars out of south end of number 1 total of 19 cars. Instructed 4:00 P. M. engine to switch number 4 track south end switching out 14 cars for rip or Continental Oil and switch number 7 track at south end switching out 7 cars.

On February 15, 1961, yardclerk Gassaway instructed engine foreman Phillips in switching to switch number 1, 2, 3, and 4 at south end, and pulling and setting Continental Oil, switching out 24 cars and lining up for trains.

On February 16, 1961, yardclerk Garrett instructed engine foreman Boone to switch east side pulling two loads resetting one leaving balance set, switch west side pulling one empty tank bad order resetting 6 cars set two pits at south end. Also instructed engine foreman Boone to switch south end storage number 2 switching out 7 cars for Continental Oil. Instructed engine foreman to switch 6 cars out of south end of number 1 and to pull and set GP leaving GP spur pulling rack number 3 four loads and rack number 4 ten loads. Also on this same date yardclerk Gassaway instructed engine foreman Phillips to switch south end of number 6 lining up 26 cars for various points including Continental Oil Company, Rock Island Railroad, Arkansas City, Blackwell, Oklahoma, and Tampa, Texas. Instructed engine foreman Phillips to pull Continental Oil pulling 30 cars and lining up for trains.

In the above evidence was given for the Month of February and to show that this condition still exists I will skip several months here to the month of May and the following evidence is from that time.

On May 12, 1961, at 10:55 A. M. cashier Roy Roll infringed upon the rights of the yardmaster by coming out of the freight house and instructing engine foreman O. F. Boone that the trailways needed a pull and spot so that they could load further cars.

On this same date yardclerk Garrett instructed engine foreman Boone to switch east track at south end switching out three loads and respotting five cars and to switch west side to south end switching out 5 loads and respotting three cars. Also instructed engine foreman Boone to switch south end storage 1 switching 9 cars out of 30 and spotting at various industries.

On May 17, 1961, yardclerk Garrett instructed engine foreman Boone to switch south end of storage 1 switch out 8 cars out of 24. Instructed engine foreman Boone to switch and set east track at south end pulling four loads and respotting balance of cars and west side of south end pulling six loads and one empty and setting 8 cars.

On May 18, 1961, yardclerk Garrett instructed engine foreman Boone to switch south end of storage one switching 12 cars out of 29 and to pull and set east side and west side of south end pulling 13 cars and setting 6 cars.

On June 2, 1961, yardclerk Garrett instructed engine foreman Boone to switch south end of number one switching out 9 cars out of 30 and pulled one load from GP spur and two loads from GP proper. Also instructed engine foreman Boone to switch and set east tracks pulling 13 loads and respotting all cars.

On June 14, 1961, yardclerk Gassaway at 4:30 P. M. instructed engine foreman Phillips to pull and set Continental Oil pulling 54 cars and lining them up for trains south, north, and west and for the Rock Island Railroad and respotting Continental.

All of this work as presented was formally handled by yardmasters and is proof of the work being done by the others than yardmasters craft and actual work having been transferred from the yardmaster craft to the various other crafts. This is merely a summary of a few days involved in these claims and each day this work is being done continuously.

Yours truly,

/s/ E. P. Wine  
E. P. Wine,  
General Chairman"

Conference was subsequently held between representatives of the Carrier and the Organization and under date of October 13, 1961 the following letter was written General Chairman Wine by Assistant Vice President Comer:

"October 13, 1961  
170-1-2-39

Mr. E. P. Wine, General Chairman  
Railroad Yardmasters of America  
611 Glenwood Avenue  
Independence, Missouri

Dear Sir:

Among the cases we discussed in conference in my office September 26 was your claim in behalf of Yardmasters R. L. Bullard and C. E. Dawes 'in seniority order as their seniority should have permitted them to work one day each date December 10, 1960 and all subsequent dates' at Ponca City.

It is your contention that the carrier erroneously abolished the position of yardmaster at this point and that others are doing 'yardmaster' work in an amount to warrant continuance of a yardmaster position. It continues to be the carrier's position that there is not sufficient work to justify maintaining the 2:30 P. M. yardmaster position. For the reasons explained, my denial of the claim as contained in mine of August 16, 1961 is confirmed.

Yours truly,

/s/ L. D. Comer''

Carrier, under date of January 25, 1962, granted the Organization an extension of time to April 17, 1962 for submission of this case to the Board.

The following agreement rules are in effect between the Carrier and its yardmasters, represented by the Railroad Yardmasters of America (Agreement effective April 1, 1946):

**Article I—(\*) Section 1-a.** "This Agreement shall govern the rates of pay, hours of service and working conditions of yardmasters. The Management retains the right to establish, maintain and abolish yardmaster positions in any seniority district. Except as otherwise provided in this Article I, the term 'Yardmaster' as used in this Agreement shall include General Yardmasters, Assistant General Yardmasters, Yardmasters, Assistant Yardmasters and Relief Yardmasters, but shall not include Agent-Yardmasters or Footboard Yardmasters."

**Article I—(\*) Section 1-b.** "Other properly authorized representatives of the Company including General Yardmasters referred to in Section 2-a of this Article I, may, incidental to their other duties, perform in any seniority district duties performed by Yardmasters so long as such performance does not result in the elimination of a Yardmaster's position."

In reference to the rules of the agreement, it will be observed the carrier and the employees have agreed, in Article I, (\*) Section 1-a, that:

"\* \* \* the term 'Yardmaster' as used in this Agreement  
\* \* \* shall not include Agent-Yardmasters or Footboard Yardmasters."

Positions referred to as "Footboard Yardmasters" come within the scope of agreement between the carrier and the Brotherhood of Railroad Trainmen, and in reference to such positions the agreement with the Brotherhood of Railroad Trainmen contains the following rule:

### "Article III

#### Foreman Acting as Yardmaster

Nothing in Article II shall prevent the Foreman from acting as Yardmaster should it be decided by the Superintendent that he can perform those duties in connection with his other duties; provided, that in such cases he shall have two helpers.

The wages for yard foremen who also act as yardmasters will be not less than two-thirds of one hour's pay in excess of the yard foremen's daily rate. The same rules for the basic day and overtime shall apply to such employes as applies to other yardmen."

The above rule, with the exception of that portion relating to the **amount** of the differential, was a provision of the Agreement between the Carrier and the Brotherhood of Railroad Trainmen at the time agreement was first made between the Carrier and the Railroad Yardmasters of America, and since such positions came within the scope of agreement with the Brotherhood of Railroad Trainmen, the Board will understand the reason and necessity for including in Article I, Section 1-a of agreement with the Railroad Yardmasters of America the specific provision that:

" \* \* \* the term 'Yardmaster' as used in this Agreement \* \* \* shall not include Agent-Yardmasters or Footboard Yardmasters."

**POSITION OF CARRIER:** Initially, it is the Carrier's position that the instant claim should be dismissed for the reason that it does not constitute a valid claim under Article V of the Agreement of August 12, 1954 between the Eastern, Western and Southeastern Carriers and the Railroad Yardmasters of America, commonly referred to as the time limit rule, reading in part as follows:

"All claims or grievances must be presented in writing by or on behalf of the employe involved, to the officer of the Carrier authorized to receive same, within 60 calendar days from the date of the occurrence on which the claim or grievance is based. \* \* \*"

The Board's attention is directed to the vague and indefinite claim in favor of two men, R. L. Bullard and C. E. Dawes, for December 10, 1960, and all subsequent dates, **without designating a specific claimant on any specific date**, with no showing whatever as to the specific dates on which each of the named individuals it is claimed would have been entitled to work as yardmaster. The claim, as filed by the Organization, apparently contemplates that each of the two named individuals shall be paid a minimum day at yardmaster's rate for December 10, 1960 and all subsequent dates, although only one day's service daily as yardmaster would have been available had the yardmaster position not been abolished. Claimant R. L. Bullard was the regular occupant of the yardmaster position at the time it was abolished, and claimant Dawes was a relief or extra yardmaster eligible to protect such relief or extra yardmaster service as was available to him. This claim has been filed for a mini-

mun day's pay in favor of two individuals without any showing whatever as to their eligibility or availability for the service for any specific date for which pay is claimed.

Article V of the August 12, 1954 Agreement clearly contemplates that a claim must designate a specific claimant for a specific date or dates which the Employes have failed to do, and the claim, therefore, falls short of the conditions imposed by the time limit rule. In this respect, the awards of the various Adjustment Boards have consistently adhered to the principle that the Carrier may not be required to check its records to develop the validity of claims, the burden of proof resting upon the Employes. The Carrier therefore asserts that the claim as filed fails to comply with the requirements of said Article V(a) of the August 12, 1954 Agreement and should be dismissed.

It is also the position of the Carrier that claim for "all subsequent dates" is improper in that the Organization has presented claim on the theory that work belonging under the scope of the Yardmasters' Agreement has been delegated to others not covered by the Agreement. This, then, cannot be considered a continuing claim as referred to in Article V(d) of the August 12, 1954 Agreement. Rather, it must be shown on each and every date that work exclusively reserved to yardmasters is being performed by others **in an amount such as would place the Carrier in violation of the rule** and the only dates that can properly be considered are those for which proof is furnished to substantiate the general claim. As is stated in Opinion of Board in Award 793 of this Board:

"If it is the purpose of the Organization to present a claim on the theory that work belonging under the scope of the Yardmasters' Agreement has been delegated to others not covered by the Agreement, then the claim should so state, and proof thereof submitted for the date or dates for which such claim may be made.

"We have concluded, therefore, that the claim must be dismissed."

Without prejudice to or receding from its position as heretofore set forth, the Carrier further asserts that on the merits the claim should be denied. Exercising the right specifically reserved to it in that portion of Section 1-a of Article I of the current Yardmasters' Agreement reading:

"The Management retains the right to establish, maintain and abolish yardmaster positions in any seniority district."

the yardmaster position at Ponca City, Oklahoma was abolished effective with the close of work December 10, 1960.

There is no schedule requirement that the Carrier maintain a yardmaster's position when there is no need for it. It is and always has been the prerogative of Management to determine the amount and kind of supervision necessary in connection with its yard operations. Section 1-a, of Article I specifically reserves to the Carrier the right to determine when to "establish", when to "maintain" and when to "abolish" a yardmaster position. The validity of this rule and the right thus preserved to the Carrier has already been upheld in this Board's Award 829.



Section 1-a, Article I, heretofore quoted in Carrier's Statement of Facts, is a part of the Arbitration Proceedings, National Mediation Board, Docket No. A-1848, Arbitration 57, Award dated March 21, 1946, and is a section on which it subsequently was deemed necessary to request an interpretation. The interpretation of Arbitration Award, National Mediation Board, Docket No. A-1848, Arb. 57, dated at Chicago, Illinois, March 11, 1950, contains the following question and answer which is relevant to this case:

"QUESTION 1:

Is the Carrier correct in its position that Article I, Section 1-a, of the Arbitration Award permits it to continue the use of agent-yardmasters and footboard yardmasters, as it has in the past, to perform yardmaster duties in conjunction with their other duties as agents and yard foremen (switchmen), or is the Organization correct in its position that Article I, Section 1-b, of the Arbitration Award applies and prohibits the Carrier from abolishing a Yardmaster position when there is no longer need for such a position and assign the remaining yardmaster duties to an agent-yardmaster or footboard yardmaster, to be performed in connection with their other duties.

"ANSWER:

Section 1-a by the specific non-inclusion of agent-yardmasters and footboard yardmasters contemplates their continued use as such. However, with respect to the establishment, maintenance and abolishment of yardmaster positions, the parties are not hereby deprived of their rights under the Railway Labor Act."

The Carrier thus has the right, under Section 1-a, Article I, to utilize a footboard yardmaster to perform yardmaster duties whenever the amount of supervision necessary does not warrant the establishment or maintenance of a full-time yardmaster position.

The inclusion of the reference to "Agent-Yardmasters or Footboard Yardmasters" in Section 1-a, Article I, of the Yardmasters' Agreement was for the specific purpose of recognizing the right of such classes of employees to function as such without violence to the Yardmasters' Agreement.

The foregoing is supported by that contained in the "Opinion of Board", Award No. 829, Fourth Division, involving a somewhat similar dispute on the Coast Lines of this Carrier, where it is stated:

"But under the interpretation the Mediation Board also ruled, in answer to Question Number 1 that, awarded section 1-a, of the Agreement, 'by the specific non-inclusion of Agent-Yardmasters and Footboard-Yardmasters, contemplates their continued use as such.' "

as well as by the following awards:

**Award 482, Fourth Division**

"It appears that on April 21, 1947, the Yardmaster position on the third or night shift at Idaho Falls, Idaho, was abolished, and that on June 19, 1947 this position was reestablished. During the intervening period a Footboard Yardmaster supervised the single switch engine crew operating on this shift. The petitioner contends that the performance of this supervisory work by the Footboard Yardmaster constituted a violation of the controlling agreement, effective November 16, 1946, and it requests that the employe adversely affected by this alleged violation be compensated for all wages lost by him.

"Rule 16 of the agreement expressly safeguards 'the carrier's right \* \* \* to discontinue established positions'; and Rule 1 expressly excludes Footboard Yardmasters from the scope of the agreement. These provisions furnish a definite basis for the carrier's procedure. The discontinuance of positions because of the changing needs of the service, does not require the assent of the employes; and the very exclusion of Footboard Yardmasters from the scope of the agreement constitutes a recognition of their existence on this property and of their performance of yardmaster work in conjunction with their duties as engine foremen. No evidence was submitted to show that the Footboard Yardmaster performed any work other than that of his own classification, as recognized in agreements of long standing between the carrier and the Brotherhood of Railroad Trainmen, and no valid grounds were adduced for considering the abolition and subsequent reestablishment of the position of Yardmaster, under the circumstances of this proceeding, as constituting a violation of the Yardmasters' Agreement."

**Award 486, Fourth Division**

"\* \* \* Finally, no violation of the agreement resulted from the use of a Footboard Yardmaster during the four-hour night period when no Yardmaster was on duty. See Docket No. 476, Award No. 482, decided by this Board concurrently with this proceeding."

**Award 967, Fourth Division**

"We find nothing in the rules cited to us which requires the carrier to maintain a position of yardmaster at the point involved, in the event any yardmaster duties are required. Rule 16 (e) specifically provides: 'This agreement shall not be construed as an obligation to maintain or establish yardmasters' positions, nor as restricting the Company's right to discontinue yardmaster positions now or hereafter established.' The scope rule together with the Memorandum of Understanding of April 18, 1946 particularly permits 'yardmaster duties' to be performed by certain classes of employes who are not yardmasters. That memorandum of agreement is quoted in full in Award 734 (page 11) and by reference in Award 793 (page 13) and again is quoted in Award 797 (page 6). It is again quoted here: 'Confirming

verbal understanding reached in conference at St. Louis, Missouri today, it is understood paragraph (c) of Rule 1, agreement effective September 11, 1945, which reads: "This agreement does not change present practice of officers of the Railway, agent-yardmasters or footboard yardmasters, directing or supervising switching or yard service" applies to instances where officers of the railway, agent-yardmasters or footboard yardmasters are required to perform certain yardmaster duties after the effective date of the agreement signed at St. Louis September 11, 1945 and effective September 16, 1945, as well as instances where this was being done at the time the agreement was signed. Signed at St. Louis, Mo., April 18, 1946.' "

Going now to the specific claim as quoted in Employees' Statement of Claim, it is alleged that " \* \* \* yardmaster's work at Ponca City, Oklahoma, (is) being performed by others outside the scope of the Agreement, after the abolishment of the position at that point" and that as a result thereof Yardmasters R. L. Bullard and C. E. Dawes are entitled to an additional day each date at the yardmaster rate. In previous correspondence it was alleged this work was performed by clerks and others.

While, as heretofore stated, the Carrier, under the Agreement, has the right to utilize a footboard yardmaster to perform yardmaster service, attention is directed to the fact that most if not all of the work listed by the Employees is **not** work belonging exclusively to those of the yardmaster class, although some of this work may have been performed by the yardmaster when assigned at Ponca City, incidental to and in conjunction with his supervisory duties. Most of the work listed **is work that is regularly and normally performed by other than yardmasters** and cannot be considered exclusive yardmaster work.

It is and always has been the function and responsibility of an engine foreman to secure information and arrange the work for his own engine. In order to accomplish this he must get certain information from clerks and others and must exercise his own judgment as to the manner in which the work is performed. That obviously is the duty of any engine foreman. With only one yard engine assigned around the clock at Ponca City all movement of cars and information pertaining thereto naturally affects the work of the yard engine crew in some manner.

Informing the dispatcher of cars to go forward in outbound trains, ordering, releasing and handling of yardmen, furnishing engine foremen (footboard yardmasters) lists showing work to be performed, relaying information to engine foremen as to work desired by industries and all other work set forth on individual days by the Employees and as quoted in Carrier's Statement of Facts is certainly not work reserved exclusively to those of the yardmaster class but is also regularly performed by clerks, agents, dispatchers and others, including footboard yardmasters. As previously stated, there is only one yard engine in service around the clock at Ponca City. At many points on this property where only one or two yard engines are employed on a shift we do not have yardmasters assigned. Obviously, then, other employees perform the work at those points, just the same as is done at Ponca City since the abolishment of the yardmaster position.

Just what is yardmaster work? This Board has said (Awards 1228 to 1233, for example) that the work of yardmasters does not lend itself to being spelled out or described in definite terms as does the work of many other classes of railroad employees. The work of a yardmaster is basically the work of planning and supervising the work of other employees. The question of how much supervision is required must of necessity be one of managerial discretion to be decided by the Carrier and which the rule has reserved to the Carrier.

Without receding from the foregoing, if it is the position of the Employees that certain of the work forming the basis for this complaint is yardmaster work—and, as to that performed by the footboard yardmaster, that the Carrier does not have the right, under awarded Section 1-a, Article I, to utilize footboard yardmasters to perform such yardmaster work—it is only necessary to direct the Board's attention to Section 1-b, Article I, of the current Agreement, heretofore quoted in Carrier's Statement of Facts, which specifically provides that other than yardmasters may, incidental to their other duties, perform duties performed by yardmasters.

Section 1-b, Article I, as will be noted from the asterisk (\*) designation, is also a part of the Arbitration Proceedings, National Mediation Board, Docket No. A-1848, Arbitration 57, Award dated March 21, 1946, and likewise is a section on which it was subsequently necessary to request an interpretation. Interpretation of Arbitration Award, National Mediation Board, Docket No. A-1848, Arb. 57, dated at Chicago, Illinois, March 11, 1950, contains the following question and answer concerning this Section:

“QUESTION 2:

Is the Carrier correct in its position that Article I, Section 1-b, of the Arbitration Award permits ‘other properly authorized representatives of the Company, including General Yardmasters, referred to in Section 2-a \* \* \*’ to perform yardmaster duties incidental to their other duties so long as such performance does not result in the elimination of an existing yardmaster position, or is the Organization correct in its position that the incidental performance of yardmaster duties by ‘other properly authorized representatives of the Company, including General Yardmasters’ in connection with their other duties amounts to a failure and refusal by the Carrier to establish a yardmaster position, and is a violation of that portion of the arbitrated rule reading ‘\* \* \* so long as such performance does not result in the elimination of a yardmaster position.’

“ANSWER:

The question propounded presents the problem of whether ‘elimination’ also includes ‘failure to establish.’

‘Elimination’ may, under certain circumstances, include ‘failure to establish.’ These circumstances may involve volume and character of the work performed. However, the controlling test is whether such work when performed by ‘other properly authorized representatives’ is or is not incidental to their other duties.”

Based on the foregoing, the Carrier has the right to utilize "other properly authorized representatives of the Company" to perform yardmaster work, **incidental** to their other duties. From the work listed by General Chairman Wine and quoted in Carrier's Statement of Facts it can be readily observed that should any of such work be considered yardmaster work, **such work could only be considered as incidental to the other duties of those performing the work and such performance of work did not result in the elimination of a yardmaster's position or in failure to establish a yardmaster position**—rather, it was the reduction in the amount of supervision deemed necessary by Management. The work simply was not there and there was no longer justification for continuing the yardmaster position. As previously stated, **there were only three yard engine assignments in effect, one around the clock**, each of which is under the direction of a footboard yardmaster.

The incidental performance of yardmaster duties by employees other than those of the yardmaster class has been held not to be in violation of the rights of yardmasters by the Fourth Division, National Railroad Adjustment Board, in numerous awards, i.e.:

#### **Award 406**

"We are not required in every case to grant affirmative relief where it may be shown that a clerk, agent or other employee exercises some minor or incidental supervision over yard switching, in connection with the discharge of his other duties. We have recently held in several cases that such violation must be substantial in nature. See Awards of this Division numbered 358, 359, 363, 365, 367 and 396."

#### **Award 497**

"\* \* \* Undoubtedly when it abolished a shift as it did on June 12, 1947, and reduced its yardmaster positions from three to two, some of the minor supervisory work of that position was performed by a footboard yardmaster, who is a foreman covered by the Trainmen's Agreement. This did not constitute a breach of the current agreement. For the right to abolish a position is undoubted when there is not sufficient work to justify its continuance. It is true that the abolishment of a position does not give to the carrier the right to assign the work of that position to employees not covered by the Scope Rule of the Agreement. Yet the work may be of such a nature, and it may be the apparent purpose of the Agreement that a rigid exclusion of all others from the performance of it is not intended. Such is the case here, and what the carrier did was not a violation of the rule. Award 482 is an authority for a denial of this claim."

#### **Award 1299**

"Singularly absent from the North Fond du Lac Yard picture here presented is any clear showing either of the existence of such a substantial volume of traffic as would reasonably warrant the assignment of a yardmaster at this location, or of the prevalence of a significant amount of supervisory duties uniquely associated with the Yardmaster's Craft.

\* \* \* \* \*

Taking cognizance of the fact that only three yard engines are regularly assigned at North Fond du Lac, one on each shift, and giving further consideration to the extent and range of yard and road activity engaged in at this point, the asserted intrusion upon the Yardmaster's work sphere is not discernible."

#### **Award 1499**

"\* \* \* It is apparent from this record that the basic work of a Yard Clerk is receiving and transmitting orders and keeping records; and the record in this case does not show that the Yard Clerks are acting as supervisors or that they have the responsibilities of supervisors, as is asserted by the Organization. The record shows that Yard Clerks do pass information or instructions to Foreman, but they do not undertake on their own initiative or in their own judgment to determine or instruct how a Foreman shall accomplish his assigned task or what movement shall be accomplished by the Foreman. \* \* \*"

Awarded Section 1-a, Article I, of the Agreement permits the retention and use of footboard yardmasters to perform yardmaster duties and Awarded Section 1-b, Article I, of the Agreement provides that employees, other than yardmasters, may, incidental to their other duties, perform duties performed by yardmasters.

In order to prevail the Employees must conclusively show that work **exclusively reserved to yardmasters** is being performed by others in an amount such as would place the Carrier in violation of the rules. This they cannot do!

The Carrier reserves the right to make such additional reply as it may conclude is required upon receipt of the Employees' ex parte submission.

All that is contained herein has been available to the Employees or their representatives.

Oral hearing is desired.

**OPINION OF BOARD:** The present claim is based on the contention that Carrier used non-yardmasters to perform duties of an abolished yardmaster position at Ponca City, Oklahoma.

While the matter was being explored on the property, Petitioner submitted to Carrier specific facts showing that certain employees outside the scope of the Agreement performed duties of the abolished position on numerous dates. During the discussions on the property, Carrier did not deny these facts or quarrel with the quality of the evidence but limited itself, so far as the merits of the dispute are concerned, to the argument that there was insufficient work to justify maintaining the abolished position. In that connection, Carrier pointed out that only one engine remained on duty around the clock at Ponca City and "the work formerly performed by the yardmaster, not all of which was exclusive to those of the yardmaster craft," could be handled by the footboard yardmaster and required "only a small fraction of his time."

The difficulty with Carrier's position is that it has committed itself to a collective bargaining agreement covering yardmasters positions and their work. So long as that agreement is in force, Carrier cannot unilaterally eliminate a yardmaster position and have its duties performed by footboard yardmasters, agents or others outside the scope of the agreement. Nothing in Article I, Section 1-a and 2-a, or any other provision of the Agreement calls for a different result and we are not empowered to provide equitable relief in this situation, assuming that it is an appealing one for such action.

The uncontroverted facts establish that a yardmaster position was eliminated and some of its duties thereafter performed by non-yardmasters. Confronted with very specific information furnished by Petitioner, Carrier produced no data whatsoever to show that the non-yardmasters in question were merely implementing orders that actually originated with yardmasters or were performing work that normally had been part of their regular assignment.

While Petitioner failed to submit any or sufficient facts as to some of the claim days, we do not regard the duties described by Petitioner as insubstantial, insofar as those performed on January 4, 5, 6, 9, 10, 11, 12, 13, 16, 17, 18, 20, 25 and 27, February 6, 7, 8, 9, 13, 14 and 16, May 12 and June 9, all in 1961, are concerned. There is no question but that Carrier violated the Yardmasters Agreement by using non-yardmasters to perform yardmaster work on those dates. See Award 1343. In our opinion, the present situation differs considerably, particularly as to the factual submissions on the property, from those considered in Awards 1156, 1660, 1663 and others cited by Carrier's representatives.

Apart from the merits of the case, Carrier maintains that the claim must be dismissed since, in breach of Article V, Section (d) of the August 12, 1954, Agreement, it is vague and indefinite in not designating "a specific Claimant on any specific date, with no showing whatever as to the specific dates on which each of the named individuals it is claimed would have been entitled to work as yardmaster." In our opinion, this argument lacks merit and the claim is sufficiently clear and definite. The matter of determining which of the Claimants is eligible for compensation on claim dates is simply an item of routine detail that may be readily ascertained by checking the records. See Third Division Awards 10871 and 11372.

We have found that Carrier has engaged in violations by its use of ineligible employees to perform yardmaster work on certain specified dates in 1961. The claim will be sustained as to these dates.

**FINDINGS:** The Fourth Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier and the employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

The parties to said dispute were given due notice of hearing thereon.

The Agreement was violated.

**AWARD**

Claim sustained to the extent indicated in the Opinion.

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
By Order of **FOURTH DIVISION**

**ATTEST:** Patrick V. Pope  
Secretary

Dated at Chicago, Illinois, this 24th day of July, 1963.

**CARRIER MEMBERS' DISSENTS**

**Docket 1775, Award 1835; Docket 1782, Award 1836**

One of the well settled principles of this Division is that the burden of proving a violation of the agreement is upon the Petitioner. In applying this principle we have heretofore consistently held that where it is contended that other employes are performing yardmaster duties the Petitioner must show by sufficient and competent evidence, not merely "specific information", that employes other than yardmasters are actually performing yardmaster supervisory duties in substantial volume. Until there is sufficient and competent evidence of such fact, there is no duty upon the Respondent to object to the "quality" or to "explain away or controvert" the "specific information" submitted by the Petitioner. There was no evidence here that other employes were in fact performing any yardmaster supervisory duties. All the so-called "specific information" shows is that some clerical and yard employes were performing their duties without supervision by a yardmaster; that no employes were performing any work which could properly be classified as exclusively yardmaster work; that no orders or instructions of a supervisory nature were given the yard crews by any official or employe. If the "specific information" proves anything, it proves that there is a complete lack of need for yardmasters at Streator and Ponca City.

The awards in these dockets are so obviously erroneous and such a complete departure from principles established by our prior awards that we are required to note our dissent thereto.

**CARRIER MEMBERS**

**A. H. Deane**

**J. R. Wolfe**

**C. A. Conway**

**OPINION OF THE LABOR MEMBERS WITH RESPECT  
TO AWARD NO. 1835, DOCKET NO. 1775**

The claim here involved, processed subsequent to the abolishment of the yardmaster position, was a continuing one requesting pay for



December 10, 1960, and all subsequent dates, to require the Carrier to correct the conditions which brought the dispute.

Certainly, the specific evidence produced on twenty-three (23) days proving the violation contended was sufficient to indicate without question that the improper action of the Carrier was a regular and continuing infraction, which would justify an award sustaining the claim as made.

There is no valid reason for limiting the allowances to the twenty-three (23) days on which evidence was produced. This award will contribute to an eventual demise of what has been known as "continuing claims", long recognized by the various Divisions of the National Railroad Adjustment Board and are specifically provided for in negotiated agreements; will force the Employees to submit multitudinous specific claims for specific dates, thereby, further over-burdening the various Divisions and adding to the backlog of cases now a matter of serious concern.

Claim should have been sustained as made.

**LABOR MEMBERS**

**R. H. Wachowiak**

**W. J. Ryan**

**J. P. Tahney**