Form 1 NATIONAL RAILROAD ADJUSTMENT BOARD Award No. 2521
FOURTH DIVISION Docket No. 2502

Referee Harold M. Weston

PARTIES TO DISPUTE: Railroad Yardmasters of America

The Baltimore and Ohio Railroad Company

STATEMENT OF CLAIM: Claim and request of Railroad Yardmasters of America that: -

Yardmaster R. S. Shippy, 7 A.M., to 3 P.M., and Yardmaster W. L. Creager, 11 P.M., to 7 A.M., each be allowed one day's pay at the appropriate Yardmaster rate for January 8, 1969 and all subsequent dates until condition at Garrett, Indiana is corrected account positions abolished and the duties being performed by Clerks, Trainmasters, Conductors and Operators.

OPINION OF BOARD: Petitioner's theory is that Carrier breached the Yardmasters' Agreement by (1) abolishing the first and third trick yardmaster positions at Garrett, Indiana, on January 8, 1969 and (2) thereafter having clerks, trainmasters, conductors and operators perform the duties of the abolished positions. First and third trick yard crew assignments had been discontinued by November 7, 1968, while the second trick yardmaster position had been abolished on May 1, 1967, following the elimination of second trick yard crew assignments.

Petitioner's first point is not persuasive. Article 4, which it emphasizes in that regard, merely prescribes the monthly rates to be paid yardmasters at 49 locations listed in that Article. Nothing in Article 4 or in any other provision of the Agreement provides expressly or by fair implication for a guaranteed minimum of positions or work or prohibits Carrier from abolishing a position. It is well settled that, in the absence of a contractual commitment to the contrary, carriers may abolish positions so long as the duties of those positions do not remain to be performed. See, among many others, Awards 974, 1151 and 1208.

The critical question is whether yardmaster responsibilities were discharged by non-yardmasters during the claim period. Our Award 2367, which denied a similar claim occasioned by the abolition of the second trick yardmaster position on the same property is not controlling since there, unlike the present situation where all yardmaster assignments had been abolished, the Board relied in large measure upon evidence that first and third trick yardmasters were able to leave instructions for second trick work and thus fill the gap.

The fact that no yardmasters were employed at Garrett during the claim period is entitled to some weight in assessing the merits of this dispute. It is, however, balanced and offset by the consideration that there were no yard crews to supervise at that time for their assignments had been abolished well before the discontinuance of the first and third trick yardmaster positions.

In this posture of the record, it is incumbent upon Petitioner to come forward with convincing proof that duties belonging to yardmasters are being performed by other employes. Evidence that employes are calling crews, handling clerical duties and passing on information is not sufficient in that connection, for that work does not belong exclusively to yardmasters. Similarly, the issuance of bulletins by trainmasters containing standard train and safety instructions is a normal responsibility of such officials and does not trespass upon yardmaster functions. There is a lack of clear and detailed evidence in the record that employes at Garrett have been performing a substantial amount of the major supervisory yardmaster duties mentioned in the Agreement (see Article 1 and the rules and regulations of the operating department), such as making up trains, classifying freight trains, handling an appreciable amount of switching within the yard or supervising the equivalent of yard crews. There also is inadequate proof regarding the volume of traffic handled in the yard. So far as the record shows, this appears to be a situation where Carrier has reasonably exercised its prerogative to decide that yardmaster supervisory functions are no longer required by the volume of work at Garrett, where no yard crews remain, train operations are primarily through operations and the small amount of switching performed is of a recurring and routine nature.

Upon evaluating the record in its entirety, we conclude that the claim has not been substantiated by the record and must be denied. See Awards 1156, 2300 and 2473.

FINDINGS:

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

The carrier and the employes involved in this dispute are respectively carrier and employe 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 parties to said dispute waived right of appearance at hearing, but were granted privilege of appearing before the Division, with the Referee sitting as a member thereof, to present oral argument.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Fourth Division

ATTEST: Muriel L. Humfreville
Muriel L. Humfreville
Secretary

Dated at Chicago, Illinois, this 21st day of April, 1970.