Form 1 NATIONAL RAILROAD ADJUSTMENT BOARD Award No. 3232
FOURTH DIVISION Docket No. 3241

Referee Irwin M. Lieberman

PARTIES TO DISPUTE: Railroad Yardmasters of America

Boston and Maine Corporation

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

Carrier violated Paragraph (b) of Agreement YM 5 effective June 25, 1971, Rule 17 of current Agreement and Title 1, Section 2, Paragraph 7 of the Railway Labor Act, therefore, 8 hours at punitive yardmaster rates be paid for the following claims:

E. R. Cote December 8,9,15,16,22,23,29 and 30 1973

E. J. Bazin January 2,3,5,6,9,10,12,13,19,20,26 and 27, 1974.

account not used as Yardmaster at Lawrence, Mass.

OPINION OF BOARD: On November 26, 1973 Carrier notified the Organization's General Chairman of its intention to eliminate Yardmaster coverage at Lawrence, Massachusetts on Saturday and Sunday. On the following day Carrier notified the affected employees that there would be no spare yardmasters to cover the 1st and 3rd trick shifters on Saturdays and 1st trick shifters on Sundays. On the same day, November 27th, a notice was posted stating:

"Yard Clerks

"Effective Saturday December 8, 1973 there will be no yardmasters on duty for the first and third tricks on Saturdays and for the first trick on Sundays.

"The clerks will not perform yardmaster's duties. Shifters will be expected to perform all yard shifting of inward trains, deliver cars to consignees as usual, and make up local freights for Monday morning as time will permit."

The Organization contends that Carrier did not have the right, without negotiation, to change the rest days of the individual assignments. Furthermore, it is argued that there were no significant changes warranting the changes; the work load was heavier rather than less. Most importantly, Petitioner claims that Yardmaster duties and responsibilities were performed, after December 8, 1973, by either Yard Foremen or clerical forces.

Carrier argues that it had the right to rearrange the Yardmaster positions at Lawrence, including the determination of the supervision required. Carrier also asserts, in denying that Yardmaster functions were performed by other employees, that Petitioner failed to adduce any evidence that scope work was in fact being performed by other than Yardmasters on the days in question.

We note, first, though the issue is moot, that Carrier failed to readvertise the newly created positions with the changed rest days. The dispute has two central issues: can Carrier, without negotiation, change Yardmaster positions, as herein; and further did the changes result in Yardmaster work being performed by other than Yardmasters. This is the latest dispute in a long series involving this Carrier and other Carriers throughout the industry dealing with the abolition of or change in Yardmaster positions. It is a well established principle of this Board that barring contractual restrictions a Carrier may abolish a position when it determines that the position is no longer necessary (See Award 2960). It is also well established that management has the prerogative to determine the amount of supervision required in a yard. In a series of Awards dealing with closely related issues on this property, we have evaluated whether or not Yardmaster functions were being performed by other employes after the positions were blanked (Awards 1882, 1883, 2405, 2360 and 1655). In Award 1655 we said, inter alia,:

> "The record contains insufficient evidence to sustain Petitioner's contention or to establish that a yardmaster is needed at Bellows Falls. The mere fact that a switcher is on duty does not provide, in our opinion, the support, essential to Petitioner's position and no helpful citation of authority has been presented to the contrary."

In the case at bar, no authority or rule has been cited which inhibits the Carrier's right to change or abolish the yardmaster positions; the Organization was notified in accordance with the February 2, 1973 Mediation Agreement. The record is totally barren of evidence that yard clerks or other employees performed any of the work belonging exclusively to yardmasters. We must conclude that Petitioner has failed to sustain the burden imposed on it to prove its claim by substantive evidence; we have no alternative but to dismiss the claim for lack of proof.

FINDINGS:

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

The carrier and the employe 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 thereon.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Fourth Division

ATTEST: Executive Secretary
National Railroad Adjustment Board

By: Nancy J. Dever
Assistant Executive Secretary

Dated at Chicago, Illinois, this 16th day of September, 1975.