

NATIONAL RAILROAD ADJUSTMENT BOARD  
FOURTH DIVISIONAward Number 3862  
Docket Number 3794

Referee Martin F. Scheinman

PARTIES Railroad Yardmasters of America  
TO  
DISPUTE: The Chesapeake and Ohio Railway Company

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

Yardmaster Richard Courter claiming one additional yardmaster day for dates of August 21, 22 and 28, 1979 account Carrier abolished the Hump yardmaster positions and Claimant here being then required to assume the duties of his own Yard D yardmaster duties and those of the abolished hump yardmaster position.

OPINION Carrier, due to a decline in business, abolished the 10:30 p.m. - 6:30  
OF BOARD: a.m. Hump and Assistant Hump Yardmaster positions at Wallbridge, Ohio, effective as of the close of business on August 17, 1979. Claimant, Yardmaster Richard Courter, who worked the third trick Yard "D" yardmaster position at Wallbridge, Ohio submitted time tickets claiming eight (8) hours at the pro-rata rate for August 21, 22 and 28, 1979. Claimant claimed that he was entitled to compensation for performing the duties of the Hump Yardmaster.

The Organization contends that Claimant was required by Carrier to assume the duties of his own position as well as those of the Hump Yardmaster. As such, it asserts that payment is owing to the Claimant.

Carrier, on the other hand, insists that there is no basis for the claim. It maintains that it has the sole discretion to abolish a position when it determines that the position is no longer necessary. In Carrier's view, it may reassign the small amount of remaining work to another yardmaster at the same location on the same seniority roster.

During the handling on the property, the Employes failed to introduce any rule which it alleged had been violated by Carrier's action. In fact, General Chairman Cooke forthrightly acknowledge that "we have no rule in our contract to cover this particular situation."

It is a fundamental principle that this Board may only find for a Claimant when there is a violation of a specific rule of a current working Agreement. When there is no alleged violation of a schedule agreement or National Agreement we have no basis to sustain a claim. Therefore, we will dismiss this claim in its entirety.

One final word: In its submission to this Board the Organization submitted here evidence and new arguments. In addition, rules not discussed during the handling on the property were introduced. It is well established that this Board, absent an agreement between the parties, may not consider evidence or argument raised for the first time at the Board level. Since this evidence and argument were not part of the handling on the property, we have no alternative, but to exclude them from our deliberations.

## 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 denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Fourth Division

## ATTEST:

Executive Secretary  
National Railroad Adjustment Board

By:   
Assistant Executive Secretary

Dated at Chicago, Illinois, this 13th day of August 1981.