



from the evidence adduced by the organization, they do not allege that this matter occurred daily, but only intermittently.

Correlatively, we do not find substance to the parallel allegation that the General Chairman failed to follow up and conduct a conference, after he requested it. His letter dated March 2, 1978 and identified in the record as employees' exhibit F verifies that such a written request was made. Further, the organization states that a conference was held on August 2, 1978 on this claim and two other claims but Carrier did not confirm the conference (following the initial and timely declination of the claim earlier) of this case - only another of the claims that was discussed and similar in nature. From this development, we have a classic confrontation of evidence and assertions - with both sides proffering supportable and unsupportable allegations. If, from the record we could categorically prove that the claim was not conferenced, then we would have no alternative, under the facts and circumstances herein other than to dismiss it. (See Third Division Award 21440, et al on this point.) But we cannot reach this conclusion. At best, we have a vivid example of "assumptional handling" by both parties and we suggest to them that communications improve to obviate any future misunderstandings.

Turning to the merits of this dispute, we again find an incomplete record. Carrier asserts that Claimant was not required to operate tractors in the performance of his duties, while the organization appears to allege that he was if he were to perform his job efficiently. As this inconclusive record stands, it is strikingly similar to the facts and record in Award 8215 between the same parties, where the issue of whether an employee was required to operate a tractor in the discharge of his duties was posed. We reiterate in this decision that our function as an appellate review body is not to establish rates of pay, which is properly the subject of collective bargaining or to direct management how to define work and insure its completion by employees.

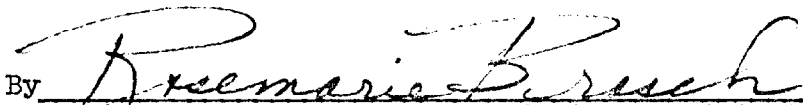
It may be that an employee may perform his duties three times as efficiently with the use of a tractor than by hand - but - if management does not direct him, or require him to use the tractor in the discharge of his duties, we have no statutory authority to impose such a condition upon the Carrier absent an agreement or understanding to that effect between the carrier and the union. Similarly, in the operation and application of Rule 20, payment of employees at the higher rates is conditioned upon the fact that employees be "required" to perform the duties of the higher rated position. Thus, following the lead in our Award 8215, we are remanding this case to the parties, relying on their good faith, for a settlement in accordance with Rule 20. If the evidence shows that Claimant was not required to perform the duties of a higher rated position during the claim period, but did so of his own volition, this claim would have to be denied - even if by Claimant's actions, in using the tractor, he accomplished much more work. It may be that management is pennywise and pound foolish in not requiring him to use the tractor - but that is their prerogative and not ours. On the other hand, if management directed or approved of his use of the tractor during the claim period, then the claim would be valid for those dates when he performed service, under Rule 20, which would entitle him to the higher rate of pay. We will retain jurisdiction in the event the parties are unable to dispose of the claim as indicated above.

A W A R D

Claim remanded to the parties in accordance with the above findings.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest: Executive Secretary  
National Railroad Adjustment Board

By   
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 16th day of January 1980.