

Award No. 2134
Docket No. CL-2121

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Sidney St. F. Thaxter, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES**

LEHIGH VALLEY RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood:

(1) That the following employes at Manchester Yard Office be paid the difference between \$139.70 (Clerical rate) and \$265.00 (Yard Master's rate) from April 10, 1940 to September 7, 1941, account of Yard Masters' position being discontinued and the duties and responsibilities of these positions being assigned to clerks:

S. F. Mox —April 10, 1940 to September 7, 1941.
John Rodney —April 21, 1940 to September 7, 1941.
P. E. Hoskins —April 21, 1940 to July 11, 1941.
Leon Vienna —July 12, 1940 to August 1941
(4 days per week Aug. 1941 to Sept. 7, 1941.)
Wm. Collins —4 days per week April 1940 to August 1941.
Harold Mosher —June, 1941 to Sept. 7, 1941.

EMPLOYES' STATEMENT OF FACTS: The Lehigh Valley Railroad maintains at Manchester, N. Y. a General Yard Office and the yard is known as a classification yard where eastbound cars are classified for movement to eastern points and westbound cars are classified for Buffalo and Suspension Bridge.

Prior to April 10, 1940 the force consisted of the following employes:

7 A. M. to 3 P. M. trick:
General Yard Master
Eastbound Yard Master
Westbound Yard Master
Lead Clerk
Eastbound Clerk
Icing Report Clerk
Crew Dispatcher

3 P. M. to 11 P. M. trick:
1 Yard Master
Eastbound Clerk
Westbound Clerk
Crew Dispatcher

The position of Assistant General Yard Master was discontinued in June, 1938.

Rule 4 referred to in the position of the employee is not applicable to this case. First, because the yardclerks were not temporarily assigned to higher rated positions and did not assume the duties and responsibilities of those positions, but were in fact required to perform work covered by their agreement, which had theretofore been done in part by yardmasters as an incident of their duties. Moreover, the rule was not intended to apply to a situation like this but only where a clerk was temporarily assigned to a higher rated clerical position, in which case he would be entitled to the pay of that position. There was no such assignment here.

Rule 9, relating to the adjustment of rates, also cited as having been violated, is not involved. There was no change in the character of the service required. There was perhaps an increase in the volume of work but it was work which properly belonged to the clerks. If the clerks' organization felt that there should have been some adjustment in the rates by reason of increased volume, they knew very well how to go about it, but to arbitrarily demand the yardmaster's rate for the clerks was clearly not the way to do it.

Carrier respectfully requests that this claim be dismissed as not supported by the evidence.

OPINION OF BOARD: The problem in this case is the same as that before this Board in CL-2120, Award No. 2133, except that the claim here is restricted to clerks, who, it is claimed, have taken on yardmaster's duties and does not include clerks, who, it is claimed, have lost work belonging to them to yardmasters. Award No. 2133, Docket CL-2120, in so far as it disposes of the first question is controlling here. In accordance with the views there expressed, we must hold that there was no violation of the agreement shown by the evidence in this case.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the carrier and the employee involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Committee has failed to establish that the agreement has been violated as claimed.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 5th day of April, 1943.