

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Bruce Blake, 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 System Committee of the Brotherhood that:

1. Mr. Paul Melvin, Messenger, Coxton, Pa., shall be paid the difference between the rate of Messenger, \$110.60, and rate of Yard Checker, \$160.10, for February 27, 1943 and

2. The senior extra Messenger available for service on February 27, 1943, shall be paid one day's pay at Messenger rate account of being deprived of one day's work as Messenger, when Melvin was not used as Yard Checker.

EMPLOYES' STATEMENT OF FACTS: For many years it has been the practice to work a Yard Checker on each Saturday, checking Coxton Yard. When no qualified Checker was available, it has always been the practice to rearrange the forces by using regular Messenger Melvin as Checker from 7:30 A. M. to 3:30 P. M., and to fill the vacancy of Messenger with an extra Messenger.

On Saturday, February 27, 1943 there were no qualified extra Checkers available and the position of Yard Checker was blanked until 10:00 A. M. Mr. W. J. Donovan whose regular assigned position is that of Weighmaster, hours 11:30 P. M. to 7:30 A. M., was used as Extra Yardmaster from Mid-night to 10:00 A. M. on February 27th, and after completing his tour of duty as extra yardmaster, was then used as Yard Checker from 10:00 A. M. to 2:00 P. M.

Claim was duly filed, the Committee contending that Donovan, a regular assigned clerk when used as Extra Yardmaster from 12:01 A. M. to 10:00 A. M. could not perform clerical work after completion of his assignment as extra yardmaster to the disadvantage of employees covered by the clerks' agreement; that Yardmasters are a separate class or craft, and that though Donovan held seniority on the Clerks' roster, when used as an extra Yardmaster he had worked in an entirely different category, and, holding a regular clerical assignment could not be used to perform extra clerical work, while any extra men were available. The Claim was appealed in the regular manner up to the highest official designated by the Carrier for handling such claims, the Case being concluded by letter from Asst. Vice President and General Manager Gerard, June 2nd, 1943, reading:

"Referring to conference here on May 18th and 19th, at which time the docket submitted by the General Chairmen's Association was discussed, and in connection with your Case No. C-43-32, claim of P. Melvin, Coxton:

"On account of difficulty in the Westbound Office at Coxton, by reason of new employees on duty the previous 16 hours, it was neces-

CARRIER'S STATEMENT OF FACTS: On February 27, 1943, William Donovan, with seniority on the Clerks' Roster, was used as an extra yardmaster from 12:00 Midnight to 10:00 A. M. On account of inexperienced clerks in service in the Westbound Yard at Coxton, the bills became mixed, and it was necessary to give some assistance in the office to straighten out the billing, and after Mr. Donovan completed his trick as extra yardmaster, he was sent there to help out and he put in four hours on that work.

POSITION OF CARRIER: It is noted the employees in their Statement of Claim did not cite any rules of their agreement which have been violated. However, in presenting the case on the property, they claim Rules 1, 37 and 39 of their agreement were violated. None of these rules were violated, and they were so advised in conference, and it may be on this account that they quote no violation of rules. There was no violation of any of the rules of their agreement, and the arrangement made in this emergency was proper, and no grounds for complaint by the Clerks.

At the time the necessity for extra service in the Westbound Yard to straighten out the billing arose, 10:00 A. M., Paul Melvin, messenger, was covering the 7:30 A. M. to 3:30 P. M. trick as messenger, and, of course, was on duty at the time Mr. Donovan, a clerk and senior to Melvin, was working as an extra yardmaster, afterwards doing this special checking.

Under the circumstances, it is difficult to understand by what method of figuring the Clerks make this claim, as there is no basis for it. Therefore, it should be denied.

OPINION OF BOARD: Conceding that there was a technical violation of Rule 47 (c), in that claimant was not called to perform the work in question, we think this claim is without substance. The work was performed by Donovan who held seniority rights under the controlling agreement. An emergency existed—caused, evidently, by inexperienced clerks. From the record we think it is apparent that claimant did not have sufficient experience to perform the work with dispatch, if at all. Donovan did have. In selecting him to do it, we think the carrier acted within its rights under Rule 39.

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

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

That the claim is without merit.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 26th day of April, 1944.