Award No. 4545
Docket No. CL-4487

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Adolph E. Wenke, Referee.

PARTIES TO DISPUTE:

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

CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that Employe Walter Geisinger be compensated the difference between his regular rate of pay or $7.81 per day and that of the Supervisor-Rate Department, or $9.36 per day, from June 22nd, 1945 to July 6th, 1945, inclusive, or, 12 days at $1.55 per day.

JOINT STATEMENT OF FACTS: Employe Walter Geisinger, classified as General Clerk at Fowler Street Freight Office, Milwaukee, Wisconsin, rate, $7.81 per day, was taken from his regular assignment and assigned to work in the Rate Department during the period June 22nd, 1945 to July 6th, 1945 inclusive, at his regular rate of pay, in order to clear up an accumulation of work in that department. During this period he handled carload corrections almost exclusively, which was generally part of the work performed by the Supervisor—rate Department, rate, $9.36 per day, although the Supervisor—Rate Department assignment included other duties and responsibilities.

The Rate Department consisted of the following force:

Supervisor—Rate Department	$9.36	per day (present rate	$12.08	per day)
Rate Clerk	7.61	per day (present rate	10.33	per day)
Chief Bill Clerk	7.425	per day (present rate	10.145	per day)
Bill Clerk	6.76	per day (present rate	9.48	per day)
Junior Rate Clerk	6.21	per day (present rate	8.93	per day)

POSITION OF EMPLOYES: For some time prior to June 22nd, 1945, the Supervisor—Rate Department was required to perform duties normally performed by other employes of the department for the reasons that several employes were off duty, due to vacations and illness, which, of course, reduced the working force of the Rate Department and also, because of considerable change in the personnel of the department, the Supervisor devoted much more of his time than was normal to the instruction and training of the new employes. This condition forced the Supervisor to defer the performance of some of his regular duties, consequently there was an accumulation of the Supervisor's work, particularly carload corrections.

When employe Geisinger was taken from his regular position of General Clerk and assigned to help catch up the accumulation of the Supervisor's

by the Supervisor—Rate Department, although not exclusively performed by him, and employe Geisinger did not fulfill the duties and responsibilities of the position of Supervisor—Rate Department. Therefore, there is no basis for the contention that he is entitled to any rate except his regular rate of $7.81 per day which was in excess of the rates of all employes in the Rate Department with the exception of the Supervisor.

We respectfully request that the claim be declined.

(Exhibits not reproduced.)

OPINION OF BOARD: The System Committee of the Brotherhood makes this claim in behalf of Walter Geisinger. It asks that he be compensated the difference in pay between that of his regular position of General Clerk and that of Supervisor—Rate Department during the period from June 22, 1945, to July 6, 1945, inclusive.

During the period from June 22, 1945, to July 6, 1945, inclusive, Claimant Walter Geisinger, a general clerk stationed at the Fowler Street Freight Office of Carrier in Milwaukee, Wisconsin, was assigned to and performed the duties of handling carload corrections. For doing this work he was paid at the regular rate of a General Clerk. The work was necessary in order to clear up an accumulation of work in the Rate Department due to changes in various positions therein.

Rule 34 of the parties' Agreement provides:

> "Employes temporarily or permanently assigned to higher rated positions shall receive the higher rates while occupying such positions; employes temporarily assigned to lower rated positions shall not have their rates reduced.
>
> A 'temporary assignment' contemplates the fulfillment of the duties and responsibilities of the position during the time occupied, whether the regular occupant of the position is absent or whether the temporary assignee does the work irrespective of the presence of the regular employe. Assisting a higher rated employe due to the temporary increase in the volume of work does not constitute a temporary assignment."

It should first be stated that the work here performed was not that of assisting a higher rated employe due to a temporary increase in the volume of his work, which is excepted from Rule 34.

Admittedly the Claimant did not perform all of the duties and responsibilities of the position of Supervisor—Rate Department during the period here involved but he did, during this period, devote his time to performing duties of the Supervisor—Rate Department, which includes that of handling carload corrections. The question therefore arises, does Rule 34 contemplate and require an employe to fulfill and perform all of the duties and responsibilities of the higher rated position before being entitled to the rate thereof? It will be observed that under the rule there may be an assignment irrespective of the presence of the regular employe. This clearly indicates that the rule does not contemplate that the employe assigned must necessarily fulfill and perform all of the duties and responsibilities of the higher rated position. We think the rule means that when an employe is assigned to and devotes his time to the performance of duties and responsibilities of a higher rated position he is entitled to the rate thereof although he may not necessarily perform all the duties and responsibilities thereof. See Awards 2270 and 3032 of this Division. We find that Claimant, during the period herein involved, was assigned to and performed work of a Supervisor—Rate Department and, under Rule 34, was entitled to be paid at the agreed rate of that position.

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 Employes involved in this dispute are respectively carrier and employes 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 Carrier violated the Agreement.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 12th day of September, 1949.