Award No. 4732

Docket No. CL-4796

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Francis J. Robertson, Referee

PARTIES TO DISPUTE:

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

CLINCHFIELD RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(1) The Carrier violated the Clerk's Agreement when it failed and refused to give Messenger Ray Huskins credit for previous clerical experience in other than Railroad service in fixing his rate of pay.

(2) That Ray Huskins shall be paid the established rate of pay of the position which he occupied retroactive to February 7, 1949.

EMPLOYES' STATEMENT OF FACTS: Mr. Ray Huskins was employed February 7, 1949 as messenger in the Accounting Department at Erwin, Tennessee and placed on a position the basic rate of which was $207.64 per month. Upon employment date Mr. Huskins was not given credit for one-half time engaged in previous clerical experience in other than railroad service, his rate of pay being reduced to $199.92 per month the minimum rate established for an employe without previous clerical experience accepting a position as messenger or office boy which rate was $7.72 per month less than the established rate of the messenger position assigned to Mr. Huskins.

Mr. Huskins filed formal request April 29, 1949, that he be given credit, for one-half time engaged in other than railroad clerical work while employed as a retail clerk in the grocery department of A. R. Brown and Company. (A General Merchandise Store).

Mr. Hewett declined the request, May 5, 1949, in letter addressed to Mr. Huskins reading as follows:

Erwin, Tenn., May 5, 1949
File 575-H

Mr. Ray Huskins,
Building.

Referring to your letter April 29, requesting that you be allowed credit for employment as a clerk prior to your employment by the Clinchfield.

According to your personal record file your employment prior to entering the service of the Clinchfield was with the Erwin Hotel as messenger, and with A. R. Brown & Company as salesman in the Grocery Department which merely consisted of waiting on customers.

By reference to your agreement between the Railroad and the Brotherhood of Railway and Steamship Clerks, etc., effective February

OPINION OF BOARD: For some time prior to his employment by Carrier in a messenger's position, claimant worked as a grocery clerk and hotel messenger. Carrier paid him at the rate prescribed for employes without previous clerical experience, said rate being lower than the established rate of the position. Employes assert that he should be given credit for his previous experience and paid the established rate from the beginning of his employment.

The issue presented in the docket is whether or not the experience gained by the claimant in his employment as a grocery clerk should be credited to him under the provisions of the Agreement. Article 5, section (m) reads in pertinent part as follows:

> "Clerks who enter the service with previous clerical experience in other than railroad service will be allowed credit for one-half time engaged in such service and their pay will be based accordingly."

Article 5, section (o) reads in pertinent part as follows:

> "An employe without the above previous experience filling the position of messenger or office boy will be paid as follows: During the first six months or 153 days actually worked, $10.00 less per month than the full rate of the position worked, and the full rate after six months' service."

The record is somewhat confused with respect to the total time served by claimant in the capacity of grocery clerk. We, however, do not consider that of particular importance since we are convinced that that is not the type of experience which is contemplated as making the claimant eligible for the higher rate of pay under the step rate rule. The Agreement defines a Clerk and differentiates between employes covered thereby who shall be considered as Clerks and other employes covered by the Agreement who are not considered Clerks. The step rate rule contains no definition of clerical experience. However, it is only reasonable and logical to assume that the outside (other than railroad) clerical experience contemplated is of like nature as that gained while engaged in work similar to or related to the type of work engaged in by a Clerk as defined by the parties themselves in the writing of the Agreement. This is true for, if Carrier is required to pay a higher rate of pay for experienced personnel, it must do so because presumptively such personnel is more skillful and efficient than the inexperienced. If the experience asserted as entitling one to a higher rate of pay is not similar to or related to the type of work which the employe will be expected to perform in his employment with the Carrier, the very thing upon which the higher rate is based does not exist. In other words, the consideration for the obligation fails.

The strongest point in the Employes' favor in connection with their contention is contained in a letter from the manager of the grocery department in the store where claimant worked, which appears in the Employes' submission. Therein the manager states: "I should say about 4½ hours per day were spent in preparing and calculating bills and other reports by Mr. Huskins." This is contested by Carrier. The letter contains other facts which are in conflict with statements made by the claimant. Furthermore, the statement is refuted by the generally known duties of a grocery clerk, of which we believe we are justified in taking cognizance. The rate paid the grocery clerk's position (40c per hour) is also indicative of the fact that manual skill rather than clerical skill, as contemplated by the Agreement, was involved in its performance. It follows that the claim must be denied.

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 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 herein; and

That Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 24th day of February, 1950.