

Award No. 5332

Docket No. CL-5256

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

THE CHESAPEAKE AND OHIO RAILWAY COMPANY

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

(a) The Carrier violated the Clerical Agreement, when, without conference or agreement, it arbitrarily assigned a part of the work attached to position of Ticket Clerk at Lancaster, Ohio to position of Rate and Bill Clerk, and

(b) That regularly assigned Ticket Clerk Lloyd Tobias, Jr., or his successors be additionally compensated for 45 minutes per day at the punitive rate of his or their position of Ticket Clerk for each weekday beginning with March 11, 1948, account of not being called to perform overtime work attached to and in advance of his or their regular assignment of Ticket Clerk at Lancaster, Ohio.

EMPLOYEES' STATEMENT OF FACTS: On the date the claim began, the Carrier employed and maintained at Lancaster, Ohio, the following clerical force:

Position No.	Name of Employee Assigned	Title	Rate	Hours of Assignment
A- 2	Daniel Kelton	Chief Clerk	\$10.59	8:00 A.M.— 5:00 P.M.
A- 7	David Kelton	Cashier	10.49	7:00 A.M.— 4:00 P.M.
A-10	C. J. Hartman	Rate Clerk	10.39	9:00 A.M.— 6:00 P.M.
A-12	H. T. Patterson	Rate & Bill Clk.	10.39	9:00 A.M.— 6:00 P.M.
A-13	Lloyd Tobias, Jr.	Ticket Clerk	9.89	10:00 A.M.— 7:00 P.M.
A-14	E. Springer	Foreman	9.59	7:00 A.M.— 4:00 P.M.
A-15	P. H. Smith	Rate & Bill Clk.	9.39	10:00 A.M.— 7:00 P.M.
A-17	E. L. Wasem	Yard Clerk	9.24	5:00 A.M.— 2:00 P.M.
A-22	W. R. Matheny	Yard Clerk	9.24	1:00 P.M.—10:00 P.M.
C- 2	W. J. Urton	Trucker	8.40	7:00 A.M.— 4:00 P.M.

Lloyd Tobias, Jr., was regularly assigned to position of Ticket Clerk, No. A-13, with hours of assignment 10:00 A. M. to 7:00 P. M., rate of pay \$9.89 per day, days of assignment Monday to Saturday, inclusive, having been assigned to the said position by corrected addendum to Bulletin No. 49, March 10, 1948, and for the ready reference of the Board, we attach as

rier's right to reassign work so as to prevent unnecessary waste, so long as the proper rate structure is maintained in accordance with the rules. After the work was reassigned, it no longer became necessary to have the work performed on an overtime basis and Rule 33 was inapplicable. It should be noted that the Employees are actually asking for a double penalty in progressing this and the companion claim on the same factual situation. This division has ruled that it will not allow double penalties.

The Employees, in the exchange of correspondence have referred to a number of awards upon which they will rely in presenting this case to the Board. In view of the fact that it is not known just how these awards will be used, the Carrier will defer discussion of them until we have had an opportunity to see the Employees' Ex Parte Submission.

The claim should be denied.

(Exhibits not reproduced.)

**OPINION OF BOARD:** This is a companion case to Award No. 5331. The claimant in this case is the holder of the Ticket Clerk position referred to therein. His claim is based upon Rule 33, designating preference in working overtime to employees regularly assigned to class of work for which overtime is necessary.

When the passenger work in connection with Train No. 30 was assigned to the Rate and Bill Clerk position, it was no longer necessary to work overtime on the Ticket Clerk position. Hence, this claim is not supported by the rule.

**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 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 20th day of April, 1951.