

Award No. 7286
Docket No. CL-6898

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

LeRoy A. Rader, Referee

PARTIES TO DISPUTE:

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

THE BALTIMORE AND OHIO RAILROAD COMPANY

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

(a) Carrier violated Rule 1(c)1 and other Rules of the Clerks' Agreement at Lima, Ohio, Passenger Station when effective with September 23, 1949, Ticket Clerk Position No. 79-1-529 was abolished, and the work attached to same was rearranged in such a fashion that the remaining work was partly assigned to other clerical employes and the Ticket Agent, and

(b) That Ticket Clerks R. W. Thompson, H. Kaufman, and V. W. Derryberry, Lima, Ohio, be reimbursed for the difference between time paid as a Call and at pro rata rate day to cover all days they received a Call, and

(c) That R. W. Thompson, former incumbent of Ticket Clerk Position No. 79-1-529 and all other employes similarly affected be reimbursed to cover wages lost.

EMPLOYES' STATEMENT OF FACTS: Prior to September 23, 1949, the force employed at the Passenger Station at Lima, Ohio, consisted of the following:

POSITION	NUMBER	ASSIGNED HOURS	REST DAYS	ASSIGNED TO
Ticket Agent	Telegrapher	7:00A to 4:00P	Sat-Sun.	J. Ward
Ticket Clerk	79-1-529	9:00A to 6:00P	Sat-Sun.	R. W. Thompson
Ticket Clerk	79-1-531	9:00P to 6:00A	Tues-Wed.	H. Kaufman
Baggage Checkman	79-2-533	9:00P to 6:00A	Sat-Sun.	C. A. Nungester
Baggage Checkman	79-2-534	9:30A to 6:30P	Sat-Sun.	T. G. Thornburn
Mail Trucker		9:30A to 6:30P	Sun-Mon.	C. J. Sthrol
Trucker		6:45P to 3:45A	Tues-Wed.	E. C. Heinman
Trucker		11:00P to 8:00A	Mon-Tues.	R. S. Stover
Trucker		9:00P to 6:00A	Wed-Thurs.	Ed. Mitchell
Trucker		9:00P to 6:00A	Sun-Mon.	J. E. Sterling
Relief Clerk	79-1-532	Various	Thurs-Fri.	V. W. Derryberry
		Sat-Sun.	—Ticket Clerk	79-1-529
		Monday	—Mail Trucker	9:30A to 6:30P
		Tues-Wed.	—Ticket Clerk	79-1-531

(5) The principle of "ebb and flow" is expressly implied in the working contract.

(6) There is substantial evidence that both parties are in agreement as to the application of this principle under the operation of the working contract.

(7) The propriety of giving clerical employes a three-hour call is implicit in the working rules.

Based on all that has been said hereinabove, the Carrier submits the claim made here at Parts (a) and (b) and (c) is completely without merit. The Carrier respectfully requests this Division to find this claim as being without merit and to deny it accordingly.

In accordance with the requirements contained in this Division's Circular 1 issued October 10, 1934, the Carrier submits that all data in support of the Carrier's position in this case has been presented to, or is known by, the other party to this dispute.

(Exhibits not reproduced.)

OPINION OF BOARD: The claim here presented is the same situation on an interpretation of the same rules of the same Agreement between these parties as considered in Award 7285.

However, from this record the use of the Call Rule 8 in the Agreement as applied to (b) of the claim is not clear and we are of the opinion that this part of the claim should be remanded for further consideration on the property.

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

Carrier violated the Agreement as the Claims (a) and (c). Claim (b) to be remanded.

AWARD

Claims (a) and (c) sustained. Claim (b) remanded in accordance with Opinion and Finding.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 26th day of March, 1956.