

Award No. 10094

Docket No. CL-9508

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Martin I. Rose, Referee

PARTIES TO DISPUTE:

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

CHICAGO & EASTERN ILLINOIS RAILROAD COMPANY

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

(1) That Carrier violated rules of the Clerks' Agreement when they unilaterally bulletined position of General Clerk at 33rd Street Ramp, Chicago, rate \$15.50 per day, to employees in Seniority District No. 18 which they subsequently cancelled and then bulletined the identical job with title of General Clerk changed to Yard Clerk and the rate of pay changed from \$15.50 per day to \$14.67 per day to employees in Seniority District No. 20.

(2) That Carrier be required by appropriate order of the Board to properly bulletin the position of General Clerk, rate \$15.50 per day, to employees in Seniority District No. 19.

(3) That assignee be compensated for any wage loss sustained retroactive to date the position was improperly filled on or about November 18, 1955.

NOTE: Retribution to be determined by joint check of Carrier's records.

EMPLOYEES' STATEMENT OF FACTS: The clerical forces under the Brotherhood at the Chicago, Illinois, Freight Station and Yards, consisted of three separate and distinct Seniority Districts; as set forth in our present Agreement effective April 22, 1955; titled Seniority Districts reading as follows:

Rule 5—Seniority Districts

"The following Seniority Districts are established:

18. Chicago local freight office.

vides a formula for establishment of the proper rate. The fact that the position was first bulletined at a higher rate in District No. 18 (where rates are generally higher) than that ultimately established in District No. 20, has no bearing on a determination of the issue. Rule 28 is controlling.

Here again the burden of proof rests with Petitioner. The Carrier has presented evidence that the rate for the new position in District No. 20 was established in conformity with Rule 28. A contrary decision must rest upon substantial evidence showing that the rate was not established in conformity with the wages for positions of similar kind or class **"in the seniority district where created."**

The Carrier submits that the position in question was bulletined in the proper seniority district and that the rate was established in compliance with Rule 28. The facts of record do not warrant a sustaining award.

(Exhibits not reproduced.)

OPINION OF BOARD: The record reveals that Petitioners have failed to prove that the position in dispute should have been established in Seniority District No. 19 instead of in Seniority District No. 20. It appears that Seniority District No. 19 has had no position at the involved location for approximately 25 years.

The duties of the position are comparable with those of similar positions in Seniority District No. 20. It is our opinion, therefore, that Carrier fully complied with Rule 28 and the seniority provisions of the Agreement.

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 Employee involved in this dispute are respectively carrier and employee 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 Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 6th day of October, 1961.