

Award No. 13046
Docket No. CL-12625

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Benjamin H. Wolf, Referee

PARTIES TO DISPUTE:

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

**CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-4962) that:

1. Carrier violated the Clerks' Rules Agreement at Milwaukee, Wisconsin, when it abolished a regularly assigned 5-day position, Steno-Clerk Position No. 10, and established a Relief Clerk and Steno position which is assigned to perform work on Position No. 10 on four (4) days and relief work on Position No. 26 on one (1) day, thus combining regular and relief work in one position.

The Carrier further violated the Agreement when it assigned rest days of Sunday and Monday to Position No. 26 which is a regularly assigned 5-day position.

2. (a) Employee E. R. Cary shall now be paid eight (8) hours' pay at the punitive rate of Position No. 26 for each Saturday, retroactive to July 23, 1960 and thereafter until the violation is corrected; and (b) an additional eight (8) hours' pay at the straight time rate for each Monday, retroactive to July 25, 1960, and thereafter until the violation is corrected.

3. Employee Diane Shanahan shall now be paid eight (8) hours at the straight time hourly rate of Position No. 10 for each Monday on which she was required to suspend work on her position, retroactive to July 25, 1960, and thereafter until the violation is corrected.

EMPLOYEES' STATEMENT OF FACTS: From 1938 to November 27, 1956 Employee K. V. Zimmerman was the regular occupant of General Clerk Position No. 26 in the Superintendent's Office, Muskego Yard, Milwaukee, Wisconsin. Position No. 26 was assigned six days per week, Monday through Saturday, prior to September 1, 1949; and five days per week, Monday through Friday, thereafter.

days, viz., steno-clerk work on Tuesday, Wednesday, Thursday and Friday, said action on the part of the Carrier was entirely proper and in accordance with the provisions of Rule 27 (e).

Insofar as the abolishment of Steno-Clerk Position No. 10 is concerned, there is no schedule rule or agreement which precludes the abolishment of a position when a diminution in the volume of work no longer justifies its retention and the assignment of the remaining duties to another position, therefore, no violation occurred when, as a result of a diminution in the volume of work, the Carrier abolished Steno-Clerk Position No. 10 and assigned the remaining duties to the relief position described in the preceding paragraph.

Insofar as the conversion of General Clerk Position No. 26 from a 5-day position to a 6-day position is concerned, there is no schedule rule or agreement which prohibits same, therefore, no violation occurred when, on or about July 30, 1960, the Carrier changed General Clerk Position No. 26 from a 5-day position to a 6-day position and assigned it from Monday through Saturday with relief provided on Monday.

The Carrier wishes to direct attention to Third Division Award 6979 which is directly in point and supports the Carrier's position in its entirety.

There is no basis for this claim.

There has been no violation of the rules.

The Carrier respectfully requests that the instant claim be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: Both General Clerk Position No. 26 and Steno-Clerk Position No. 10 were 5-day positions, Monday through Friday. On July 14, 1960, Carrier bulletined a change in Position No. 26 to rest days of Sunday and Monday. At the same time Position No. 10 was changed the Relief Clerk and Steno working Position No. 10 Tuesdays through Friday and Position No. 26 on Mondays. The Organization objects because Carrier has combined a regular and a relief position in violation of the Agreement.

The Organization relies on Award 5330 which held that the assignment of Claimant to one day of relief was improper because the position worked by Claimant four days a week was a five-day position and that Agreement did not contemplate such an assignment as a "regular relief assignment."

Award 5330, however, is distinguishable from the facts here. In our case Position No. 10 became a 4-day position with no duties on Monday. It did not remain a 5-day position as in Award 5330. As such it was less than a full time position and falls within the purview of Rule 27 (e) which states:

"(e) Regular Relief Assignments

All possible regular relief assignments with five days of work and two consecutive rest days will be established to do the work necessary on rest days of assignments in six or seven-day service or combinations thereof, or to perform relief work on certain days and such types of other work on other days as may be assigned under this agreement.

Assignments for regular relief positions may on different days include different starting times, duties and work locations for employees of the same class in the same seniority district, provided they take the starting time, duties and work locations of the employee or employees whom they are relieving."

There is no prohibition in the Agreement against the Carrier establishing a one-day relief assignment and then adding to it, as other work, a four-day assignment to complete a five-day position. We think this case falls within the principle established by Award 6969 and followed in Awards 7039 and 11088 and that principle is controlling here.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

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 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 18th day of November 1964.