

**Award No. 14490
Docket No. CL-15258**

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Benjamin H. Wolf, Referee

PARTIES TO DISPUTE:

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

HOUSTON BELT & TERMINAL RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5695) that:

1. Carrier violated the Clerks' Agreement when it refused to compensate Chief Yard Clerks and Line Desk Clerks at Settegast Yard Office, Houston, Texas, at the rate of pay established for and paid to Lead Machine Operators and Machine Operators in the same seniority district, which class of work is now being performed by Claimants beginning July 14, 1963.

2. Carrier shall apply the agreed-to rate for Lead Machine Operator (current rate \$24.1424) to Chief Yard Clerk positions; and shall also apply the agreed-to rate for Machine Operators (current rate \$22.0924) to Line Desk positions at Settegast Yard Office, Houston, Texas.

3. The following employes shall now be paid the difference between the compensation paid and what should have been paid beginning July 14, 1963, and continuing until the higher rates are applied to their regularly assigned positions:

| EMPLOYEE | JOB NO. | JOB TITLE |
|----------------|---------|------------------|
| R. R. Walker | 557 | Chief Yard Clerk |
| W. J. Larrigan | 560 | Line Desk Clerk |
| V. Salvato | 561 | Line Desk Clerk |
| J. E. Walker | 562 | Line Desk Clerk |
| B. J. Lester | 563 | Line Desk Clerk |
| K. B. McKnight | 565 | Line Desk Clerk |
| G. C. McKay | 558 | Chief Yard Clerk |
| J. C. McKinney | 566 | Line Desk Clerk |
| E. E. Park | 567 | Line Desk Clerk |
| F. H. Greening | 568 | Line Desk Clerk |

| | | |
|-----------------|-----|------------------|
| H. L. Thornhill | 569 | Line Desk Clerk |
| R. M. Adams | 559 | Chief Yard Clerk |
| W. M. Henson | 570 | Line Desk Clerk |
| V. J. Becker | 571 | Line Desk Clerk |
| R. R. Rollins | 572 | Line Desk Clerk |
| C. E. Wine | 573 | Line Desk Clerk |
| R. E. Mark | 529 | Relief Clerk |
| J. N. Burns | 533 | Relief Clerk |
| C. Wilson | 534 | Relief Clerk |
| O. L. Dempsey | 537 | Relief Clerk |
| D. R. Britt | 539 | Relief Clerk |
| R. D. Russ | 540 | Relief Clerk |

EMPLOYES' STATEMENT OF FACTS: Prior to July 14, 1963, the duties of the Line Desk positions were to wheel trains, make car cards, divert and write up waybills for trains and transfers, and in addition occupants of these positions were required to be rapid teletype operators as shown in Exhibit No. 18.

Prior to July 14, 1963, the duties of the Chief Yard Clerks were to supervise the office force, wire reports, wheel trains, make car cards, divert and write up waybills for trains and transfers, and in addition the occupants of these positions were likewise required to be rapid teletype operators as shown in Exhibit No. 20.

Throughout the years that the teletype machines were in use, they were used for the purpose of compiling reports involving inbound and outbound trains, and transfers of cars to other railroads.

However, beginning with and since July 14, 1963, when the IBM machines were installed, these same reports and records are being prepared on the IBM machines from information obtained from cards and tapes. The work of placing such information on cards and tapes is now performed by the Chief Yard Clerks and Line Desk Clerks by operation of the #047 Tape-to-Card machines, and the #063 Card-to-Tape machines, after which machines known as the #082 Sorter and #402 Printer are used for assembling and printing, in the applicable categories, the information obtained from the "cards" and "tapes" just mentioned.

It will be noted from Employes' Exhibit No. 19, which is a bulletin advertising vacancy on a Line Desk position, Carrier added, subsequent to July 14, 1963, to the previously bulletined duties of Line Clerks — "Must be rapid IBM Operator". There have been no vacancies on the Chief Yard Clerk positions, therefore, no new bulletins have been issued, however, these Chief Clerks are now required to supervise the entire IBM operation, as well as having to actually operate these machines, in addition to performing the assigned duties as described in Employes' Exhibit No. 20.

Prior to installing in the Auditor's Office of this Carrier the same type of IBM machines as are here involved, agreements were negotiated for the establishment of new positions and rates of pay as follows —

| | |
|-------------------|---|
| Lead Machine Opr. | \$21.64 pr day (now \$24.1424 with the general increases) |
| Machine Opr. | \$20.13 pr day (now \$22.0924 with the general increases) |
| Key-Punch Opr. | \$18.18 pr day (now \$19.7224 with the general increases) |

and that Carrier had fully complied with the provisions of their agreement with regard to the training and schooling required in the machine operation and again declined the claim (Carrier's Exhibit "D").

A conference was held January 20, 1964 in which this claim was discussed and on January 27, Mr. Alexander advised Mr. Brown the results of the conference and agreed to hold the matter in abeyance pending further study (Carrier's Exhibit "E"). Mr. Brown, under date of March 9 advised Mr. Alexander that he again requested conference to discuss this claim (Carrier's Exhibit "F"). Mr. Alexander replied March 11, 1964 that he was agreeable to further discussion (Carrier's Exhibit "G").

A conference was held April 1964 with President and General Manager R. H. Anderson in which it was agreed that further study of the rates involved would be made (Carrier's Exhibit "H"). On April 23, 1964 Mr. Anderson advised Mr. Brown that after further study, it was his opinion that the clerks in question are performing the same work they have always done and the fact that a different machine is being used is not relevant to the claim and it was again declined (Carrier's Exhibit "I"). On April 24, Mr. Brown addressed Mr. Anderson asking if he would agree that the nine (9) months in which to submit this claim to the National Railroad Adjustment Board would be April 23, 1964 (Carrier's Exhibit "J") and on April 29 Mr. Anderson replied to Mr. Brown that he was agreeable to the date of April 23, 1964 as the beginning of the nine-month time limit period in which to submit the case to the NRAB (Carrier's Exhibit "K").

(Exhibits not reproduced.)

OPINION OF BOARD: On July 14, 1963, Carrier installed IBM machines in the yard clerks' office in place of the teletype machines which had previously been used. The Chief Yard Clerks and the Line Desk Clerks underwent training to operate the new machines and, thereafter, the bulletined duties of Line Desk Clerks included the requirement that applicants must be rapid IBM Operators.

Some time earlier when Carrier installed similar IBM machines in the Auditors office, the parties negotiated new classifications and rates of pay for the positions Carrier wished to establish. They thus created the new positions of Lead Machine and Machine Operators. The claim is that the Chief Yard Clerks and the Line Desk Clerks are entitled to the same rates as Lead Machine and Machine Operators by reason of Rules 50 (a) and 51 which read as follows:

"Rule 50. Preservation of Rates

"(a) Employees temporarily or permanently assigned to higher rated positions or work shall receive the higher rates for the full day while occupying such position or performing such work; employees temporarily assigned to lower rated positions or work shall not have their rates reduced."

"Rule 51. New Positions

"The wages for new positions shall be in conformity with the wages for positions of a similar kind or class in the seniority dis-

trict where created. If there is no comparable position in the same district, then a similar position on some contiguous district is to be considered."

To prevail under these rules, the Organization is obliged to prove that Claimants are doing work which is comparable with that of Lead Machine and Machine Operators. It relies exclusively on the fact that both sets of positions operate the same machines. While a persuasive case is made that Claimants may be entitled to a higher rate by reason of the added skill they had to acquire in learning to operate the IBM machines, this Board has no power to establish a new rate or to adjust an old rate because of changes in methods, skills or training. Such changes must be made through negotiation. Awards 2682, 3484, 5131 and others. The Organization, itself, concedes as such.

Our function is to enforce the Agreement. The Rules require the Carrier to adjust the rate if Claimants are doing the work of the higher rated position or work comparable to it. It is obvious that the work of the Claimants is more than the operation of certain machines and to rely on the fact that both operate the same machines is like arguing that a typist who takes no stenography and a secretary who does should be paid alike because both operate typewriters.

In the absence of other evidence of comparability, we must hold that the Organization has not sustained its burden of proof.

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 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

That Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 2nd day of June 1966.

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