Award No. 15439
Docket No. CL-15669

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Nathan Engelstein, Referee

PARTIES TO DISPUTE:

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

ILLINOIS CENTRAL RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5757) that:

(a) The Carrier violated the Clerks' Agreement in the Mail Terminal, Memphis, Tennessee, when on December 11, 1963, and continuing through December 24, 1963, it assigned work attaching to Mail Supervisors positions (Group 1, Roster 1) to newly created "Chief Mail and Baggage Handlers" (Group 3, Roster 2).

(b) Extra Mail and Baggage Handlers, T. Flewellen, F. H. Richards, F. Adams, C. E. Kidd, J. L. Blanton, William Anderson, E. Scales and Joe Little shall now be compensated the difference between what they earned as Mail and Baggage Handlers and Head Mail and Baggage Handlers and what they would have earned ($19.83 per day) had they been assigned to the new Chief Mail and Baggage Handler positions on the basis of their seniority rights on December 11 to December 24, 1963, inclusive.

(c) Regular Head Mail and Baggage Handlers S. Wright, Jordan Newby and F. P. Wood shall now be compensated a day's pay at the pro rata rate of their regular positions ($18.83) in addition to remuneration already received, on December 11 to 24, 1963, inclusive, account removed from their regular positions and required to fill the new Chief Mail and Baggage Handler positions.

(d) Clerks J. E. Hughey, D. T. Robinson, C. L. Higganbotham and F. E. Thompson shall now be compensated a day's pay at the pro rata rate of Mail Supervisor positions ($20.57) on December 11 to 24, 1963, inclusive, in addition to remuneration already received, account not called and used on Mail Supervisor positions, the duties of which were performed by employes of another roster.

EMPLOYES' STATEMENT OF FACTS: The positions involved in this dispute are:

The mail and baggage handlers, covered in group 3 of Rule 1, are formed into crews; each crew is assigned by the mail supervisor to a specific task, such as, unloading the mail off a certain train, breaking the unloaded mail down for routing on other trains, or loading mail of specific destinations on the proper train. While performing the work to which it was assigned, the crew is under the direction of a head mail and baggage handler, a group 3, roster 2 employe. The head mail and baggage handler oversees the work to insure that the mail supervisor's instructions are properly carried out. He handles mail along with the others in his crew for practically the full tour of duty.

Naturally, around Christmas time, the flow of mail increased considerably; and became necessary to increase the mail and baggage handler force. Effective December 11, 1963, three seven-day positions, fully covered by the agreement, were established for the period up to Christmas Day. These temporary positions, titled chief mail and baggage handler, were designed primarily to perform duties similar to the head mail and baggage handler but of slightly wider jurisdiction. Therefore, these positions carried a higher rate than that of head mail and baggage handler. The duties of the chief mail and baggage handlers consisted of relaying the mail supervisor's instructions to the head mail and baggage handlers of one or two crews and overseeing the work, much the same as head mail and baggage handler, where the increased number of new personnel on a crew might present a problem for the head mail and baggage handler alone. Again, the duties of the chief mail and baggage handlers included devoting the time during their shift to the actual handling of mail. The positions of chief mail and baggage handler were created as temporary positions under Rule 12 of the agreement which reads:

"SHORT VACANCIES

Positions or vacancies of thirty (30) days or less duration shall be considered temporary and may be filled without bulletin."

In accordance with the above rule, the senior qualified employes were assigned to the positions.

The union filed claim on January 14, 1964, contending that the Carrier had violated the agreement by establishing these temporary positions and by assigning the work to group 3 employes. The claim was declined at the local level and, subsequently, at the other level of the grievance appeal procedure.

The Clerks' Agreement, effective June 23, 1922, as amended, is by reference made a part hereof.

OPINION OF BOARD: On December 11, 1963, in anticipation of the usual heavy volume of Christmas mail, Carrier increased its force at the Memphis Mail Terminal by the establishment of three temporary positions of Chief Mail and Baggage Handler, Group 3 employes who have seniority on Roster 2.

Organization contends that Carrier violated the Agreement when it removed work from Mail Supervisor positions, Group 1, Roster 1, and assigned it to the newly created temporary positions. It argues that the Clerks designated in paragraph (d) of the Statement of Claim are entitled to compensa-

tion because they were not used in Mail Supervisor positions, and Carrier assigned the duties to Group 3, Roster 2, employes. It also argues that because Carrier improperily assigned certain employes on Roster 2 to the new positions the extra Mail and Baggage Handlers named in paragraph (b) should receive compensation for the difference in earnings between what these extra employes were paid and what they would have made if they were correctly assigned to the positions they were entitled to on the basis of their seniority rights. Furthermore, Organization states that Carrier arbitrarily removed the Head Mail Baggage Handlers listed in paragraph (c) of the Claim from their regular positions to fill the newly created temporary positions.

Carrier denies that the work in question belongs to Group 1, Roster 1, employes. It stresses inconsistency in the Statement of Claim, pointing out that the claims in paragraphs (a) and (d) are in conflict with the Claim in paragraph (b) for the Brotherhood contends that the same work should have been given to both Group 1, Roster 1, employes and Group 3, Roster 2, employes. It also urges that there is no basis for the claim of the regular employes named in paragraph (c) since it had the right to use regular employes on unassigned days under Rule 37 (f).

We do not find evidence in the record to support the basic contention that Carrier assigned work attaching to the Mail Supervisor position from Group 1, Roster 1 to the new position of Chief Mail and Baggage Handler. The duties of the two types of positions are different. The Chief Mail and Baggage Handler handles mail for the greater part of the day with some supervisory duties, whereas the Mail Supervisor directs the crews as a group. In his supervisory capacity, the Chief Mail and Baggage Handler, unlike the Mail Supervisor, concerns himself with supervision of individuals in the crew, rather than with supervision of the crew as a group. The Chief Mail and Baggage Handler basically performs the same work as the Mail and Baggage Handler who is a Group 3, Roster 2 employe. Since there is no proof that the work was improperly assigned to Group 3, Roster 2 employes, claim in paragraph (d) has no merit.

We note that the contention in paragraph (b) that the named employes are entitled to the additional compensation for the higher rated positions whcih they were denied, is inconsistent with that in paragraph (d) because the Claims are the same for employes of Roster 1 and Roster 2. Furthermore, the claim paragraph (b) is for eight employes, whereas there were only three positions which were created. Because of the inconsistency and lack of clarity Claim (b) is rejected.

The record is clear that Carrier removed three employes from their regular positions and assigned them to the vacancies. Such action is contrary to the Agreement and has been so held in a number of awards, including Award Nos. 7, 9, 25, and 34 of the Special Board of Adjustment No. 170.

For the foregoing reasons we deny claims in paragraphs (a), (b) and (d) and sustain claim for compensation in paragraph (c).

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

Decision in accordance with Opinion.

AWARD

Decision in accordance with Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 30th day of March 1967.

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