



Award No. 15484
Docket No. CL-15127

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

David L. Kabaker, Referee

PARTIES TO DISPUTE:

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

DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5636) that:

(1) The Carrier violated the current rules and working conditions Agreement, particularly Rules 33, 34, and 35 when commencing July 31, 1963, and thereafter the Carrier required Edith Erickson, regularly assigned to the position of Clerk-Weigher at Steelton Station to suspend work normally attached to her position to perform the regularly assigned duties of Thomas Grimes, regularly assigned to the position of Ore Clerk at Steelton Station.

(2) Claimant Thomas Grimes the regularly assigned Ore Clerk shall be compensated at the rate of time and one-half for:

July 31, 1963	2 Hour Call
Aug. 2, 1963	3 Hours — Continuous Service
Aug. 5, 1963	2 Hours — Continuous Service
Aug. 5, 1963	2 Hour Call
Aug. 6, 1963	3 Hours — Continuous Service
Aug. 7, 1963	2 Hours — Continuous Service
Aug. 8, 1963	3 Hours — Continuous Service
Aug. 9, 1963	2 Hours — Continuous Service
Aug. 9, 1963	2 Hour Call
Aug. 10, 1963	3 Hours — Continuous Service
Aug. 14, 1963	1 Hour — Continuous Service
Aug. 15, 1963	2½ Hours — Continuous Service

and for each subsequent date that this violation continues, at the rate of pay of Ore Clerk. Violations subsequent to August 15, 1963, to be developed by a joint check of Carrier's records.

Subsequent to Mrs. Erickson's assignment to the clerk-weigher's position, a determination was made that the clerk-weigher had sufficient time to perform duties in addition to her regular duties during her regular assigned hours. The Carrier assigned ore clerk work, work which the claimant could not perform during his assigned hours, to the incumbent of the clerk-weigher position. Claimant had been working overtime beyond the assigned hours of his position to complete his assigned work.

The instant claim as set forth in the Organization's notice of intention to file an ex parte submission dated August 19, 1964, is not the same claim as was appealed to and denied by the Director of Labor Relations, the highest officer designated by the Company to handle disputes on the property.

The instant claim was submitted by claimant Grimes in a letter, not dated, to Mr. C. W. Rosen, Payroll Accountant. Copy is attached and marked as Carrier's Exhibit A.

The claim was denied by Mr. C. W. Rosen in letter to claimant, dated September 23, 1963. Copy is attached and marked as Carrier's Exhibit B.

The claim was appealed to Mr. E. W. Anderson, General Superintendent, in a letter from Local Chairman R. D. Adams, dated November 9, 1963. Copy is attached and marked as Carrier's Exhibit C.

The claim was denied by Mr. E. W. Anderson in his letter to Mr. R. D. Adams, dated November 15, 1963. Copy is attached and marked as Carrier's Exhibit D.

The final appeal of the claim was made by General Chairman J. F. Brady in his letter to Mr. H. W. Kosak, Director of Labor Relations, dated January 7, 1963. Copy is attached and marked as Carrier's Exhibit E.

Mr. Kosak denied the claim in his letter to Mr. J. F. Brady, dated January 17, 1964. Copy is attached and marked as Carrier's Exhibit F.

(Exhibits not reproduced.)

OPINION OF BOARD: The Clerk-Weigher position involved in the instant dispute was bulletined on July 8, 1963 with assigned hours of service 4:00 P. M. to 12:00 Midnight, Monday through Friday. Commencing July 31, 1963, the Clerk-Weigher was assigned certain Ore Clerk duties.

Claimant contends that the Ore Clerk duties performed by the Clerk-Weigher were improperly assigned since such duties were not listed in the description of duties in the bulletin, nor did the language contained in the bulletin, "and any other duties as may be assigned" constitute a proper assignment thereof.

Claimant further contends Carrier violated Rule 34 of the Agreement when it assigned Ore Clerk duties to Clerk-Weigher.

Carrier's position is that the bulletining of the Clerk-Weigher position was proper.

It asserts the assignment of Ore Clerk duties was made after a determination that Clerk-Weigher had ample time to perform them in addition to the regular Clerk-Weigher duties and that the occupant of the Clerk-Weigher position does not suspend work to perform the duties of another position in violation of Rule 34.

Carrier further contends that nothing contained in the Agreement prohibited it from exercising its prerogative to establish the position of Clerk-Weigher in the instant case.

We find that the Carrier properly bulletined the Clerk-Weigher position and assigned Ore Clerk duties thereto. The Agreement does not require that each duty to be performed is required to be listed in the description of duties contained in the bulletin. The Carrier may properly assign the duties to be performed by other writings or orally. Nor is it required by the Agreement that other duties which may be assigned be incidental to those duties enumerated in the bulletin. See Award 14914 — Kabaker; 10950 — Ray; 13192 — Coburn. Such action is proper even though it may result in the performance of the work at straight time rates. See Awards 15463 — Ives; 13365 — Moore and others.

Since the Ore Clerk duties were the properly assigned duties of the Clerk-Weigher, the performance of such duties as a regular part of her assignment did not constitute a suspension of work within the meaning of Rule 34 and was not a violation thereof.

In view of the fact that it is the conclusion that the claim be denied there is no need to discuss the claim for "subsequent dates."

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 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 18th day of April 1967.

Keenan Printing Co., Chicago, Ill.

Printed in U.S.A.