



Award No. 15501
Docket No. CL-15955

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Daniel House, 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-5895) that:

(1) Carrier violated the Clerks' Rules Agreement when it established a new position of Chief Yard Clerk at Bensenville with duties and responsibilities over and beyond those of comparable positions in the seniority district at a rate not reached by agreement in line with Rule 18.

(2) Carrier shall now be required to compensate Employee William D. Sullivan, his successor or successors, if there be any, for the difference between the rate established on Chief Yard Clerk Position No. 475, \$25.0304, and \$26.00, for each day from January 25, 1965 until an agreement is reached covering the rate for the position.

EMPLOYEES' STATEMENT OF FACTS: Prior to about January 22, 1965, Carrier maintained three Chief Yard Clerk Positions at Bensenville, Illinois identified as Positions 0421, 0422 and 0423. The duties of those positions were as follows:

Position 0421 - Applicants must be capable of supervising entire yard force during tour of duty. Also operate IBM Machines.

Position 0422 - Applicants must be capable of supervising entire yard force during tour of duty. Also operate IBM Machines.

Position 0423 - Applicants must be capable of supervising entire yard force during tour of duty.

The rate of pay of each of the above mentioned positions is \$25.2604 per day.

of pay for the new position will be established by agreement between the Carrier and the General Chairman."

On January 15, 1965, Mr. W. J. Hamann, General Car Supervisor, issued a bulletin to all employees in the seniority district here involved (No. 30) wherein he advertised a new position of chief yard clerk at Bensenville, i.e., Position No. 475. The rate of pay applied to newly created Chief Yard Clerk Position No. 475, i.e., \$25.0304 per day, was established in conformity with the rate of Chief Yard Clerk Position No. 0390 at Western Avenue, which is, as shown above, a position of similar kind or class in the same seniority district. In other words, the rate of newly created Chief Yard Clerk Position No. 475 was established strictly in accordance with the provisions of afore-quoted Rule 18.

OPINION OF BOARD: The issue in this case is whether Carrier complied with the provisions of Rule 18 in setting a rate for a new position. Rule 18 reads:

"The rates for new positions will be in conformity with rates for positions of similar kind or class in the seniority district where created. In the absence of a similar position in the district, the rate of pay for the new position will be established by agreement between the Carrier and the General Chairman."

Brotherhood contends that new position number 475, Chief Yard Clerk at Bensenville involved duties and responsibilities such that no other chief clerk position in the seniority district was similar enough so that the rate might be set under the first sentence of Rule 18, and that, therefore, Carrier should have negotiated the rate for the new position with the General Chairman, as required by the second sentence of Rule 18.

The only evidence in the record that the new position was not similar to other chief clerk positions in the seniority district is in the Bulletin posting the position; there the "Brief List of Principal Duties" includes, in addition to duties identical with some of the other chief clerk positions in the seniority district, "supervising . . . the Industrial Control Center during tour of duty . . ."; there is no description of this duty, nor comparison of it to other duties of the other positions. Particularly in the face of Carrier's more detailed and specific comparison to show similarities of the duties of the new position to already existing chief clerk positions in the seniority district which Carrier recited to Brotherhood on the property, this evidence of difference is not sufficient to convince us that the new position's duties were so dissimilar as to require that the rate should have been established according to the second sentence of Rule 18. The burden of proving the facts to establish its claim was the Brotherhood's, and it was not sustained.

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 19th day of April 1967.