



Award No. 15710

Docket No. CL-15587

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Claude S. Woody, Referee

PARTIES TO DISPUTE:

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

ST. LOUIS SOUTHWESTERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5763) that:

(1) Carrier violated the Clerks' current Agreement when it required Yard Clerks at Hodge, Texas, to perform duties at the improper rate of pay, beginning March 1, 1964.

(2) That Mr. S. A. Swim, and/or other occupants of Yard Clerk position, Hodge Yards, be compensated an additional fifty six cents (56¢) per eight hour day from March 1, 1964, and subsequent dates until violation is corrected.

EMPLOYEES' STATEMENT OF FACTS: Mr. J. R. Holden's Advertisement No. S-7, Clerks, February 27, 1964, briefly describes the duties required of the Yard Clerk and Car Clerk, and is quoted below:

Yard Clerk, Hodge, hours 11:00 P. M. to 7:00 A. M., five days a week, rate \$20.08 an eight hour day, assigned duties - compile interchange, checking transfer tracks, checking industry, checking and marking cars, prepare switch tickets and switch list, check and mark inbound trains, pass waybills and other related duties.

Relief Yard Clerk on Sundays, hours 11:00 P. M. to 7:00 A. M., has same assigned duties.

Car Clerk position, assigned hours 9:00 A. M. to 6:00 P. M., assigned duties, make interchange, checking transfer track, checking industry tracks, checking and marking cars, and other related duties. Friday and Saturday rest days - rate of pay \$20.64 per eight hour day.

On May 8, 1963, a claim was filed for the same violation and the same Claimant and during conferences on February 19 and March 31, 1964, it was agreed to dispose of the claim by allowing Claimants seventy-five percent of 56 cents from March 8, 1963, to and including February 29, 1964. However, it developed that the Carrier did not correct the violation and Claimant filed claim dating from March 1, 1964, until violation is corrected.

56 cents a day) would be paid to Swim and the clerks relieving him beginning with original claim date (March 8, 1963) and continue until February 29, 1964.

This adjustment was made with the understanding that it was on the same basis as the original settlement. That is, it was to dispose of the claim and was without prejudice to the rules or position of either party in other claims (Exhibit 4).

It was understood with General Chairman that this was in full and final settlement of all claims regarding rate of yard clerks at Hodge. But on April 14, 1964 (Employees' Exhibit 1), Division Chairman Cooney filed the present claim with General Yardmaster G. T. Nicks, in favor same claimant, same assignment, same alleged violation, same amount (56 cents a day), but effective March 1, 1964, and continuing until alleged violation corrected. In fact, it was nothing more than refile of the same claim which was settled in conference confirmed in letter March 31, 1964, except the starting date of the claim was shown as the day following the date payment ended in the settlement. The claim was denied by General Yardmaster Nicks April 21, 1964 (Employees' Exhibit 2). Division Chairman Cooney appealed the claim to General Superintendent J. R. Holden April 27, 1964 (Employees' Exhibit 3), which was denied by Mr. Holden May 4, 1964 (Employees' Exhibit 4). General Chairman C. W. DeMaine appealed the claim to First Assistant Manager-Personnel W. L. Cowan May 28, 1964 (Employees' Exhibit 5), and took no exception as to manner in which claim had been previously denied.

Mr. Cowan pointed out that claim was barred under time limit rules and also denied the claim as to merits July 7, 1964 (Employees' Exhibit 6). General Chairman DeMaine appealed July 10, 1964 (Employees' Exhibit 7), and for first time took exception to the manner in which General Yardmaster Nick's letter April 21, 1964, denied the claim, alleging the claim was not properly denied within time limits in that Mr. Nicks' letter did not give any reason for declining the claim. Manager Personnel Erwin denied the claim August 11, 1964 (Employees' Exhibit 8). Claim was discussed in conference October 28, 1964 and denial affirmed October 28, 1964 (Employees' Exhibit 9).

Exhibits 1 to 7, inclusive, are attached hereto and made a part hereof.

The applicable agreement is that with the Brotherhood of Railway and Steamship Clerks, reprinted January 1, 1963, copy of which is on file with the Board, and the National Agreement of August 21, 1954.

(Exhibits not reproduced.)

OPINION OF BOARD: Complete analysis of the record discloses that the employees have failed to prove that higher rated work has been performed. In such circumstances, this Board has repeatedly held that it has no authority to reclassify positions or order a change in rates of pay. The claim will, therefore, be denied.

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 30th day of June 1967.