Award No. 16866
Docket No. CL-17704

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Morris L. Meyers, Referee

PARTIES TO DISPUTE:

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

PENN CENTRAL COMPANY (SOUTHERN REGION)
(Formerly New York Central Railroad — Southern District)

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6442) that:

1. Carrier violated and continues to violate Rule 29 and other Rules of the Clerks' Agreement at Sharonville, Ohio, when on August 2, 1966, and subsequent dates, it combined the duties of former Terminal Crew Dispatcher Positions No. 53 and No. 54 at Springfield, Ohio with Job No. 17, Yardmaster's Clerk at Sharonville, Ohio, and refused to pay the incumbent of Job No. 17, Mr. A. L. Runyan, the higher of the rates involved in the consolidation, $23.99 per day.

2. Carrier shall now be required to pay to Mr. A. L. Runyan the difference between $23.99 per day and the rate of Job No. 17. Payment is to be for August 2, 1966 and for each and every day thereafter which Claimant works Job No. 17 and is not paid $23.99 per day.

EMPLOYES' STATEMENT OF FACTS: This dispute is between the Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employes as the Representative of the class or craft of employes in which the claimant in this case holds a position and the New York Central Railroad (Southern District), hereinafter referred to as the Brotherhood and the Carrier, respectively.

There is in effect a Rules Agreement, effective July 22, 1922, as amended and reprinted with revisions January 5, 1951, covering Clerical, other Office and Station Employes, between the Carrier and this Brotherhood which the Carrier has filed with the National Railroad Adjustment Board. This Rules Agreement will be considered a part of this Statement of Facts. Various Rules thereof may be referred to herein without quoting the rule in full.

Prior to August 1, 1966, Carrier maintained at Springfield, Ohio, two positions known as Jobs No. 53 and No. 54, Terminal Crew Dispatchers. At the

a day on both positions, one hour of which was miscellaneous mechanical Department clerical work and the remainder calling crews for approximately ten jobs a day. Carrier determined that with this small amount of work the retention of these two positions was not justified, and they were abolished on July 31, 1966.

The train-crew-calling work formerly performed at this point was transferred to three 7-day-a-week Transportation Department Yardmaster Clerk positions (Nos. 17, 18, and 81) maintained at Sharon Yard, Cincinnati, Ohio, carrying a rate of $22.988 a day.

The engine-crew-calling duties were transferred to three 7-day-a-week Mechanical Department Engine Crew Dispatcher positions (Nos. 20, 21, and 22) also maintained at Sharon Yard. These positions carried a rate of $22.263 a day. The one hour of Mechanical Department work remained at Springfield, Ohio, and was performed by the Mechanical Department Terminal Foreman.

On the allegation that there was a combination of duties of the positions at Springfield and Sharon, the Organization progressed claims to the level of the undersigned for incumbents of the positions at Sharon Yard for the higher Springfield rate, amounting to a difference of $1.002 a day for the Yardmaster Clerk position at Sharon Yard. Claim was denied on the basis claimants were required to absorb only a trivial amount of the same class of work they had previously been performing and that a transfer of higher-rated work to lower-rated positions did not occur.

Only the claim of Yardmaster Clerk A. L. Runyan, incumbent of Job No. 17, is being progressed to your Board, with the understanding that the Award, when rendered, will govern in the remainder of the claims.

OPINION OF BOARD: For some time prior to July 31, 1966, there were two positions (Jobs Nos. 53 and 54) maintained at Springfield, Ohio in the Classification of Terminal Crew Dispatcher. The duties of these positions consisted of certain clerical work, the calling of engine crews, and the calling of train crews. Each of the two positions carried a rate of $23.99 per day.

Only about 2½ hours a day was being spent by the incumbents in both positions in the actual performance of their duties immediately prior to July 31, 1966. About one hour was occupied in Mechanical Department clerical work, the remaining 1½ hours being spent in the calling of train crews and engine crews at Springfield. In the light of this situation, the Carrier decided to abolish these positions and did so as of July 31, 1966. (The Organization does not challenge this action of the Carrier.)

When these positions were abolished, the Mechanical Department clerical work that had been performed by the Terminal Crew Dispatchers was assigned to the Mechanical Department Terminal Foreman at Springfield; the calling of engine crews for Springfield was assigned to three Engine Crew Dispatcher positions maintained at Sharonville, Ohio; the calling of train crews for Springfield was assigned to three Yardmaster Clerk positions maintained at Sharonville, Ohio.

The Claimant in this case, Mr. A. L. Runyon, was a Yardmaster Clerk (Job No. 17) at Sharonville. One of the primary duties of a Yardmaster Clerk at Sharonville prior to July 31, 1966 consisted of the calling of train crews for

Sharonville, but the duties of the job did not include the calling of engine crews. The Yardmaster Clerk positions carried a rate of $22.988 per day.

The Claimant asserts that Rule 29 of the Agreement between the parties was violated by the Carrier in that the Carrier failed to pay him the difference between $22.988 per day, the rate for Yardmaster Clerk, and $23.99 per day, the rate for Jobs Nos. 53 and 54 that had been abolished at Springfield, for each and every day that the calling of train crews for Springfield became a part of the duties of his job.

The aforementioned Rule 29 of the Agreement alleged to have been violated reads in its entirety as follows:

"RULE 29. NEW POSITIONS

> The wages for new positions shall be in conformity with the wages for positions of similar kinds or class in the seniority district where created, except that in the Locomotive, Car and Stores Departments the wages for new positions shall be in conformity with the wages for positions of similar kind or class in the seniority district in the same locality where created. When the duties of two (2) positions are combined the highest prevailing rate on either position shall apply."

The issue in this case is whether the duties of Jobs Nos. 53 and 54 at Springfield, when such jobs were abolished, were combined with the duties of the Yardmaster Clerk positions at Sharonville within the meaning of Rule 29 so as to require the higher rate of $23.99 per day, which had been the rate for the abolished Jobs Nos. 53 and 54, to be paid for the Yardmaster Clerk position that the Claimant occupied.

At the very outset, it should be noted that Rule 29 relates itself to "New Positions," and the last sentence of that Rule, upon which the Claimant relies, must be read in context with the other provisions of the Rule. When that is done, it is readily apparent that the sentence relied upon by the Claimant concerns itself with the establishment of a new position through the combination of duties of two prior existing positions.

The question thus becomes, was there such a combination in this instance? Had all of the duties of the abolished Jobs No. 53 and 54 been assigned to the Yardmaster Clerk positions, such a combination would obviously have occurred and the Carrier would have been required to pay the Yardmaster Clerk positions at the $23.99 per day rate, particularly since Jobs Nos. 53 and 54 had duties within them that were not a part of Yardmaster Clerk position duties. Even if substantially all of the duties of the abolished Jobs Nos. 53 and 54 had been assigned to the Yardmaster Clerk positions, the result would have been the same.

But neither of these hypotheticals matches the facts in this case. The clerical duties that had been a part of Jobs Nos. 53 and 54 were not assigned to the Yardmaster Clerk positions. The calling of engine crews for Springfield that had been a part of Jobs Nos. 53 and 54 was not assigned to the Yardmaster Clerk positions. Only the calling of train crews for Springfield that had been a part of Jobs No. 53 and 54 was assigned to the Yardmaster Clerk positions.

The record indicates that only about 15 minutes per trick of the Yardmaster Clerks' time was devoted to the calling of train crews for Springfield after the abolishment of Jobs Nos. 53 and 54. That was but approximately one-third of the time that had been consumed by the incumbents of Jobs Nos. 53 and 54 in the performance of their duties prior to their abolishment. Certainly that does not constitute anything close to substantially all of the duties of the Jobs Nos. 53 and 54. Therefore, it cannot be said that such a combination of duties occurred within the meaning of Rule 29 so as to require the payment of the rate to the Yardmaster Clerks after July 31, 1966 that had been paid to Jobs Nos. 53 and 54 prior to that date.

In arriving at this conclusion, it must be noted that the kind of work performed by the Yardmaster Clerks after July 31, 1966 was no different than that performed by them prior to that date. They had called train crews for Sharonville prior to the date Jobs Nos. 53 and 54 were abolished. Only the quantum of work changed after July 31, 1966. This is not to say that the amount of work may not be a factor in determining an appropriate wage rate. However, that is not the issue in this case, nor does the Board have jurisdiction to make a determination that the wage rate should or should not be increased on that basis.

Furthermore, the Board is not deciding in this case that the wage rate for Jobs Nos. 53 and 54 would or would not be payable to the Yardmaster Clerks had all or substantially all of the duties of the abolished Jobs Nos. 53 and 54 been the calling of train crews. Had that been the case, the Carrier might have been compelled to pay to the Yardmaster Clerks the wage rate for Jobs Nos. 53 and 54, notwithstanding the fact that the kind of work performed by the Yardmaster Clerks did not change. In this regard, it is noted that the wage rate for Jobs Nos. 53 and 54 had been established as a result of a compromise settlement of a prior dispute between the parties. But, here again, the Board need not decide that question since the facts in this case are not present to support any such possible conclusion.

For the above reasons, the claim will 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 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 the Agreement was not violated by the Carrier.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 23rd day of January 1969.

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