



Award Number 17910

Docket Number CL-18286

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Francis X. Quinn, Referee

PARTIES TO DISPUTE:

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

THE CENTRAL RAILROAD COMPANY OF NEW JERSEY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6623) that:

- (a) Carrier violated Rules No. 1 (g), 19 (1) and related rules of the Clerks' Agreement, on September 21, 28, October 5, 12, 19, 26, November 2, 9 and 16, 1968, at Bound Brook, N. J. Freight Station, when they required Chief Clerk, A. Orrechio to perform work assigned exclusively to Clerk V. Fuzo, Monday to Friday, and
- (b) Carrier shall be required to compensate Mr. V. Fuzo an additional four (4) hours pay, at the punitive rate, for September 21, 28, October 5, 12, 19, 26, November 2, 9 and 16, 1968 and each successive Saturday the violation is continued.

EMPLOYEES' STATEMENT OF FACTS: Carrier maintains a force of employes at its Bound Brook, N. J. Freight Station made up of one Agent (Non Scope), one Chief Clerk and one Car Clerk (both Scope).

Mr. V. Fuzo is regularly assigned to Position No. 1344, Car Clerk, having held such position since October 26, 1959. This position is identified as a five (5) day position with Saturday and Sunday as assigned rest days. Starting with the month of November 1959, Mr. V. Fuzo has covered his own assignment every Saturday, except holidays, for periods of time ranging from four (4) to eight (8) hours, and was compensated, under the Call Rule. During the Year 1964, Carrier placed an assigned three (3) hours call on this position for Saturday.

Mr. A. Orecchio is regularly assigned to Position No. 1345, Chief Clerk, having held this position since June 1943. This position is identified as a five (5) day position with assigned rest days of Saturday and Sunday. This position has been worked every Saturday, except holidays, since the inception of the forty (40) hour week Agreement for periods of time ranging from four (4) to eight (8) hours. During the Year of 1955, Carrier placed an assigned three (3) hour call on this position.

On September 16, 1968, Carrier issued instructions that, starting September 21, 1968, Messrs: A. Orecchio, and V. Fuzo are not to exceed four (4) hours of work on Saturdays. The Car Clerk is now assigned to work on

OPINION OF BOARD: Claimant is regularly assigned to a five-day position of Car Clerk and having a workweek from Monday to Friday, inclusive, with Saturday and Sunday as rest days. At the same location Carrier employs a Chief Clerk on a five-day assignment and also having a workweek from Monday to Friday, inclusive, with rest days of Saturday and Sunday. Prior to September 21, 1968 both employees performed service on Saturdays on a call basis for such period of time as their services were required. Effective September 21, 1968 Carrier issued instructions assigning the Car Clerk to work from 7:00 A.M. to 11:00 A.M. and the Chief Clerk from 11:00 A.M. to 3:00 P.M. on Saturdays.

As a result of the work hours on Saturdays being specifically stated it is contended by the Organization that the Car Clerk is unable to complete the work of his assignment that is performed solely by him during the Monday to Friday workweek and that such uncompleted portion of his assigned work is being performed by the Chief Clerk who does not perform such duties during the Monday to Friday workweek. The Organization alleges that the performance of such work by the Chief Clerk on Saturday and which work is solely performed by the Car Clerk from Monday to Friday is a violation of Rule 19 (1) reading as follows:

"Where work is required by the Carrier to be performed on a day which is not a part of any assignment, it may be performed by an available regular extra or furloughed Employee who will otherwise not have 40 hours of work that week; in all other cases and on the holidays specified in Rule 22 (b), by the regular Employee."

Organization has specifically stated the duties normally performed solely by the incumbents of both positions and that the Chief Clerk is on Saturday performing the duties of track checking, entering car number in car record book and on demurrage sheets and making out drill slips. It is further alleged that such work consumes most of the Chief Clerk's time of his assigned four-hour call, thus leaving a minimal amount of time for his own work.

Carrier contends that the claim is premised on assertion and that Claimant must do more than merely assert that the duties of the Car Clerk are being performed by the Chief Clerk. Carrier, however, does not challenge or categorically deny the statements that have been made by the Organization, and we must therefore accept them as being correct. Accordingly, we find that Rule 19 (1) of the Agreement has been violated.

The Organization also relies on Rule 1 (g) of the Agreement in support of the claim, this rule reading as follows:

"Positions or work within the scope of this Agreement belong to the Employees covered herein as provided for in these rules and nothing in this Agreement shall be construed to permit assigning this work to other than Employees covered by and as provided for in these rules or prevent the application of these rules to such positions or work except as provided for in Rule 9 (a)(4) or by mutual agreement between the Management and the General Chairman."

Inasmuch as there is no showing in the record that any work was assigned to employees outside of the scope of the Clerks' Agreement we find no violation of Rule 1(g). Organization did state that clerical work for trains arriving after 3:00 P.M. on Saturday, when handled, is now handled by a

Trainmaster. This assertion was not a part of the handling of the claim on the property and is therefore not considered here.

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 Rule 19 (1) of the Agreement was violated.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 8th day of May 1970.