



Award Number 17959

Docket Number CL-18107

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John J. McGovern, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY, AIRLINE 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-6527) that:

- 1) Carrier violated the Clerks' Rules Agreement at Seattle, Washington on July 16, 1967, when it improperly abolished Clerk Position 89870 and Assistant Cashier Position 89880 consequently requiring or permitting Supervisor M. G. Kutz, Regional Data Manager, to perform regular duties of both positions on July 17, 1967.
- 2) Carrier shall now be required to compensate employees B. J. Whelan and C. R. Kester for eight (8) hours pay at the straight time rate of their respective positions No. 88970 and 89880 for July 17, 1967.

EMPLOYEES' STATEMENT OF FACTS: Claimant B. J. Whalen is the regularly assigned occupant of Clerk Position 89870 in Seniority District No. 157, Seattle Regional Data Office, with assigned hours 7:30 A.M. to 4:30 P.M., Monday through Friday, with Saturday and Sunday rest days.

Claimant C. R. Kester is the regularly assigned occupant of Assistant Cashier Position 89880 in Seniority District 157, Seattle Regional Data Office, with assigned hours 8 A.M. to 5 P.M., Monday through Friday, with Saturday and Sunday rest days.

Due to the strike of the shop crafts, Bulletin No. 3, dated July 16, 1967 was issued by the Carrier at 2 P.M. reading:

"Because of interruption in service, the following positions are abolished as of July 16, 1967 . . ."

and the bulletin listed 16 positions and the occupants thereof, showing the starting time of each position.

Sunday was one of the assigned rest days of each of the positions abolished; consequently, it was necessary for Carrier to contact the employees affected and notify them of the abolishment of their respective positions. Employee Kester was contacted and so notified at 8 P.M. on Sunday, July

Periodically he continued in his attempt to contact the remaining employees, finally reaching Claimant C. R. Kester at 8:45 P.M.; however, it was not until 11:45 P.M. that evening (July 16, 1967) that he finally contacted the last employee affected.

From the aforelisted indisputable facts it is readily apparent the Carrier did make an all out effort to fully abide by the provisions of Rule 12(a) as quoted above and did afford each and every employee in Clerical Seniority District No. 157, including both claimants, a minimum of sixteen hours' notice of the fact that their respective positions were abolished.

Attached hereto as Carrier's Exhibit "A" is a copy of a letter written by Mr. S. W. Amour, former Vice President-Labor Relations, to Mr. H. C. Hopper, General Chairman, under date of January 26, 1968.

(Exhibits Not Reproduced)

OPINION OF BOARD: Claimant Whelan is the regularly assigned occupant of Clerk position 89870 in seniority District No. 157, Seattle Regional Data office, with assigned hours 7:30 A.M. to 4:30 P.M., Monday through Friday, with Saturday and Sunday rest days.

Claimant Kester is the regularly assigned occupant of Assistant Cashier position 89880 in Seniority District 157, Seattle Regional Data office, with assigned hours 8 A.M. to 5 P.M., Monday through Friday, with Saturday and Sunday rest day.

Due to a strike of the Shop Crafts, Bulletin No. 3, dated July 16, 1967 was issued by Carrier at 2 P.M. reading: "Because of interruption in service, the following positions are abolished as of July 16, 1967," and the bulletin listed 16 positions including the 2 positions of claimants.

Sunday, July 16th, was one of the assigned rest days of each of the positions abolished. Employee Kester was contacted and notified of the abolishment of the position at 8 P.M. on Sunday, July 16th. Employee Whelan was also contacted by telephone on Sunday evening and notified of the abolishment of her position.

The original claim as submitted was based on an allegation that on the date in question, the work of claimants was performed by a Supervisor. A review of the correspondence exchanged between the parties on the property, reveals that this claim was reviewed to the extent that it was changed to the allegation of improper notification, that is, less than sixteen hours advance notice of emergency abolishment of positions.

Further, a review of the record indicates that even before arriving at the stage wherein the claim was amended, the Carrier Officer authorized to receive claims in the first instance declined the claim but has never been notified in writing that his declination has been rejected. This, combined with the later amendment of the claim, stands in violation of Schedule Rule 36 of the Agreement, the time limit Rule. Hence, we will dismiss this claim on the procedural provisions of that Rule, without considering the merits of the case.

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;