

Award No. 19023
Docket No. CL-19251

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Thomas L. Hayes, Referee

PARTIES TO DISPUTE:

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

THE BELT RAILWAY COMPANY OF CHICAGO

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6930) that:

1. The Carrier violated the rules of the Clerks' Agreement when it required Yard Clerks at Jeffery Avenue and West 22nd Street to prepare switch lists for the hump operations at Clearing and transmit same to Clearing by machine, which had the effect of upgrading the nature of these positions to an equal plane with the Switching Information Clerk positions, without properly adjusting the rates of pay of the Yard Clerk positions to conform to the increased duties and responsibilities.

2. Yard Clerks M. A. Steed, George Wilsdon and the successful applicant of the third trick Yard Clerk position #173 (presently open), W. Foster, J. Cupersin, the regularly assigned relief employees and/or successor's, if any, are entitled to and shall now be compensated for the difference between the Yard Clerk rate and the Switching Information Clerk rate, or \$26.92 and \$28.76 per day (plus subsequent wage increases) as well as interest payment at the current rate, on the amount of reparations due, effective with the date of August 18, 1969 and continuing so long as the violation continues, or until such time as corrective measures are applied.

EMPLOYEES' STATEMENT OF FACTS: The Carrier performs switching and transfer service in the Chicago Switching District with line haul and other switching carriers, and in addition serves industries along its line of railroad. It maintains yards at South Chicago (Jeffery Avenue) and West 22nd Street and Clearing, Illinois. Its largest car handling operation is performed at Clearing Station.

Cars are flat switched at Jeffery Avenue and West 22nd Street and at Clearing are switched by gravity or what is generally known as a "hump" working or operated by gravity.

The Union contends that the yard clerks at West 22nd Street and Jeffery Avenue are now required to prepare switch lists for the hump operation at Clearing and are transmitting same to Clearing by machine, which has the effect of upgrading the nature of these positions to an equal plane with the Switching Information Clerks positions.

The Carrier contends that hump lists are not prepared at West 22nd Street and/or Jeffery Avenue, and that there has not been any increase in the duties or responsibilities of these Yard Clerk positions to warrant an adjustment of the yard clerks rate of pay.

Even if the facts in this case were to show (and they do not) that a sufficient increase in duties or a change in the character of service resulted therefrom, the rate of pay sought in the employe's claim would still be invalid. Rule 67 does not require and increase in the rate of pay, as here claimed. This rule is not ambiguous; it clearly and distinctly provides that rate of pay adjustments will be subject to negotiation. The issue boils down to this:

Is the work here in dispute, in fact, that of a higher rated position, and has there been a sufficient increase to justify the Switching Information Clerks rate of pay under any rule of the Clerks' Agreement?

The answer clearly is "no."

In this submission, then the company will show the following:

1. The duties and responsibilities of these Yard Clerk positions have not changed to warrant a rate of pay adjustment.
2. The disputed work does not in any way upgrade these Yard Clerk positions to an equal plane with the Switching Information Clerk positions.
3. Even if there had been additional duties assigned to these positions, the Agreement does not require the rate claimed.
4. There is no rule to be found in the Clerks Agreement which provides a payment of "interest" on claims, which the employees are here seeking.

(Exhibits not reproduced.)

OPINION OF BOARD: The record illustrates that the real handling given this claim on the property was under the provisions of Rule 67, reading:

"When there is a sufficient increase or decrease in the duties and responsibilities of a position or change in the character of service required, the compensation for that position will be subject to adjustment by negotiation with the General Chairman, but established positions will not be discontinued and new ones created under the same or different titles covering relatively the same class or grade of work, which will have the effect of reducing the rate of pay by evading the application of these rules."

Under the clear language of this rule, the rate adjustment is subject to negotiation with the General Chairman and is not within the jurisdiction of this Board. Accordingly, we must dismiss the claim without prejudice.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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 does not have jurisdiction over the dispute involved herein.

AWARD

Dismissed without prejudice.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 28th day of February 1972.