

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19221  
Docket Number CL-16263

Clement P. Cull, Referee

(Brotherhood of Railway, Airline and Steamship Clerks,  
( Freight Handlers, Express and Station Employees  
PARTIES TO DISPUTE: (  
(Southern Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5938)  
that:

(a) The Carrier violated the Agreement at Morganton, North Carolina, when it transferred the work of billing car-load shipments, taking orders and ordering empty cars, as well as handling telephone calls for shippers from Agent's position at Glen Alpine, North Carolina, to Yard Clerk's position at Morganton, North Carolina, without allowing appropriate rate adjustment.

(b) The Carrier shall compensate Mr. J. A. Ervin, Yard Clerk, Morganton, North Carolina, the difference between Yard Clerk's rate of \$19.37 per day, and Agent's rate of \$20.52 per day at Glen Alpine, North Carolina, for October 2, 1964, and each date thereafter that Mr. Ervin is required to perform higher rated duties of the Agent.

OPINION OF BOARD: This dispute arose at Morganton, North Carolina. Carrier removed certain work from the Agent's position at Glen Alpine, North Carolina, and assigned it to the Yard Clerk's position at Morganton. Petitioner is contending that the rate of pay of the Yard Clerk should be increased from the then present rate of \$19.37 per day to the then Agent's rate of \$20.52 per day, a difference of \$1.15 per day, basing their contention on the Preservation of Rates rule, Rule 46, of the current Agreement.

The Board has ruled in many instances, that, in attempting to preserve certain rates, the comparison must be made between positions within the scope of one Agreement, not by comparing the rate of a position of one craft or class covered by one Agreement with the rate of a position of another craft or class covered by another Agreement. Petitioner has failed to present probative evidence to prove that claimant was temporarily assigned to a higher rated position within the meaning of Rule 46 under the Clerks' Agreement. The claim will be dismissed for lack of proof.

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:

Award Number 19221  
Docket Number CL-16263

Page 2

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 claim be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: E. A. Kallen  
Executive Secretary

Dated at Chicago, Illinois, this 25th day of May 1972.