

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19284
Docket Number CL-15991

Claude S. Woody, Jr., Referee

PARTIES TO DISPUTE: ((Brotherhood of Railway and Steamship Clerks,
(Freight Handlers, Express and Station Employees
(Detroit, Toledo and Ironton Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (CL-5830)
that:

1. Carrier violated the Clerks' Agreement when, on or about May 11, 1964, it established an Operator-Clerk position at Springfield, Ohio, and arbitrarily assigned that class of clerical work being performed by clerks at all other locations to an employee who is not covered by the scope and other rules of the Agreement.

2. Carrier shall now be required to allow claim in behalf of the named claimants as follows:

C. F. Davis	-8 hours at overtime rate of \$20.80 per day for May 13, 20, 27, June 3, 10, 17, 24, July 1 and 8, 1964.
R. W. Callahan	-8 hours at overtime rate of \$21.43 per day for May 14, 21, 28, June 4, 11, 18, 25, July 2 and 9, 1964.
L. Hayner	-8 hours at overtime rate of \$20.80 per day for May 11, 18, 25, June 1, 8, 15, 22, 29 and July 6, 1964.
C. E. DeWitt	-8 hours at overtime rate of \$24.02 per day for May 12, 19, 26, June 2, 9, 16, 23, 30 and July 7, 1964.
W. E. Hyer	-8 hours at overtime rate of \$20.80 per day for May 16, 23, 30, June 6, 13, 20, 27 and July 4, 1964.

J. M. Ebling	-8 hours at overtime rate of \$20.11 per day for May 17, 24, 31, June 14, 21, 28 and July 5, 1964.
C. A. Smith	-8 hours at overtime rate of \$20.80 per day for May 15, 22, 29, June 5, 12, 19, 26 and July 3, 1964.

OPINION OF BOARD: This claim is the result of the establishment of an operator-clerk position, 5:00 p.m. to 2:00 a.m. at Springfield, Ohio.

A portion of the work assigned to this position included the operation of an IBM 1050 machine to transmit inter-terminal communications. The Carrier assigned this work to an employee covered by the Telegraphers' Agreement. During hours other than those involved herein the work in question was performed by the clerical employees.

The clerks filed this claim alleging that a violation of the rules resulted from this specific assignment to the telegraphers.

To sustain the claim would, in effect, result in removing the work from the telegraphers and assigning it to the clerks.

The so-called third party rules apply to this dispute.

An examination of the record conclusively illustrates that the proper third party notice was given and that all of the requirements set forth by the United States Supreme Court in *TCE Union vs. Union Pacific Railroad Company* 385 U.S. 157 (1966) have been complied with and therefore the case is properly before the Division for determination.

In particular reference to the facts presented by the clerks, we hold that the inter-terminal transmission of messages is not reserved to the clerical employees by the Agreement and further, that the petitioners have not proven as a matter of practice, custom and tradition that said work is theirs exclusively.

In accordance with these findings the claim is denied.

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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 the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

E. A. Killum
Executive Secretary

Dated at Chicago, Illinois, this 22nd day of June 1972.