

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19302
Docket Number MS-19615

Joseph E. Cole, Referee

(James E. Saul
PARTIES TO DISPUTE: (
(Norfolk and Western Railway Company

STATEMENT OF CLAIM: This is to serve notice, as required by the rules of the National Railroad Adjustment Board, of my intentions to file an ex parte submission on February 10th 1972 covering an unadjusted dispute between me and the Norfolk & Western Railway Company involving the question:

I am claiming one day (8) hours at time and one half at the rate of \$735.39 per month for each of the following dates. April 3, 6, 7, 8, 9, 10, 13, 14, 16, 17, 21, 23, 24, 27, 28, 29, and 30th. May 4, 5, 6, 7, 8, 11, 12, 13, 15, 19, 20, 21, 22, 25, 26, 27, and 29, 1971 for violation of rules #1-2-3-5-6-36-38-39-49 and 65 of the Master Agreement.

On each of the above dates, I was removed by you from my regular assigned position of Billing Clerk 3:00 P.M. to 11:00 P.M. Tuesday through Saturday, with Sunday and Monday as my regular assigned days of rest, to fill the position of Teletype Clerk 3:00 P.M. to 11:00 P.M. which is regularly assigned to work Sunday through Thursday, with Friday and Saturday as assigned days of rest.

No oral hearing is requested in this submission.

OPINION OF BOARD: Claimant, James E. Saul, Clerk, employed by the Norfolk & Western Railway Company at the Portsmouth Scale Office, Portsmouth, Ohio, filed his own claim and appealed it through the usual procedures alleging violation of Rules 1, Scope Rule; 2, Seniority Districts; 3, Seniority; 6, Exercise of Seniority; 36, Overtime; 39, Authorizing Overtime; 49, Established Rates and Positions; and 65, Effective Date and Changes, of the Clerks' Master Agreement.

After setting out his claim for eight (8) hours' pay at time and one-half for thirty-four (34) days in April and May 1971, Claimant made the following allegation:

"On each of the above dates, I was removed by you from my regular assigned position of Billing Clerk 3:00 P.M. to 11:00 P.M. Tuesday through Saturday, with Sunday and Monday as my regular assigned days of rest, to fill the position of Teletype Clerk 3:00 P.M. to 11:00 P.M. which is regularly assigned to work Sunday through Thursday, with Friday and Saturday as assigned days of rest."

On appeal through the various appeal steps the allegation was repeated. It was not enlarged upon; nor has anything been submitted indicating how Claimant was, in fact, performing duties of another position, or that he was, in fact, removed from his regular assigned position. The entire record in this dispute has been carefully analysed, and it is our opinion that all this Board has before it is Petitioner's claim that he was removed from his regularly assigned position and was required to perform the duties of another position. Claimant has not submitted proof supporting these two allegations.

The Carrier has denied that Claimant was removed from his position or that he performed duties other than the duties assigned to his position.

Inasmuch as no proof supporting Claimant's allegations are in the record, we are left with no alternative but to dismiss the claim for lack of proof.

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 Employee involved in this dispute are respectively Carrier and Employee 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 for lack of proof.

A W A R D

Claim dismissed for lack of proof.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: E. A. Killen
Executive Secretary

Dated at Chicago, Illinois, this 30th day of June 1972.