

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19319
Docket Number CL-17803

Gene T. Ritter, Referee

(Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees

PARTIES TO DISPUTE: (

(Chicago, Milwaukee, St. Paul and Pacific Railroad

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6449)
that:

1. Carrier violated the Clerks' Rules Agreement at Fargo, N. D. during the period March 7, 1967 to April 17, 1967, when it required or permitted the Agent, an employee not covered by the scope and application of the Clerks' Agreement, to perform the clerical work of Chief Clerk Position No. 70460 during the absence of the regular occupant.

2. Carrier shall now be required to compensate employee R. F. Holty for eight (8) hours at the pro rata rate of Position 70460 for each work day of that position during the period March 7, 1967 to and including April 17, 1967.

OPINION OF BOARD: From March 7, 1967 to April 17, 1967, Employee Person, occupant of Chief Clerk Position 70460, was absent because of sickness and vacation. During this absence, Carrier required or permitted the Agent, an employee of a class and craft not covered by the Clerks' Agreement, to perform the duties of the absent Chief Clerk. The Organization contends that Carrier was obligated by the Agreement to call and use the Senior furloughed Clerk who was available and subject to call to fill this vacancy. Carrier maintains that there was no rule violation and that Third Division Award No. 12148, a denial award, is controlling in this dispute. Carrier also contends that the work involved in this dispute was not exclusively performed by occupants of the Clerk's position.

This Board finds that Carrier's contentions are well taken. The work involved in this dispute was interchangeable between the Agent and the Chief Clerk. In this dispute, the Organization has failed to sustain its burden of proof that the involved work is exclusive to Clerks.

Also, Award 12148 (Engelstein) is found to be controlling in this dispute. Award 12148 established the principle that station work at Fargo, North Dakota, is interchangeable between Clerks and Agent, and is not specifically reserved in the Scope Rule to the Clerks. Said Award involves the same parties at the same location. This claim will be 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. Killen
Executive Secretary

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