

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19368
Docket Number CL-16422

William M. Edgett, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway and Steamship Clerks,
(Freight Handlers, Express and Station Employees
(
(Erie-Lackawanna Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6005)
that:

1. Carrier violated the rules of the Clerks' Agreement at Honesdale, Pa. when, on October 7, 1964, it abolished position of Chief Clerk and assigned all of the work to the Agent, an employee not covered by the scope of the Clerks' Agreement; and

2. C. F. Acculto be compensated for all wage loss sustained from October 8, 1964 until such time as the work is returned to the scope of the agreement. (Claim #1558)

OPINION OF BOARD: The record in this dispute reveals that, with abolishment of the Chief Clerk position account of decrease in volume of business, Carrier assigned the remaining duties to the Agent, an employee beyond the Scope of the Clerks' Agreement. Carrier contends its action is permitted by the terms of Rule 12(d) (2) of the Clerks' Agreement because less than four hours' of the Chief Clerk's duties remained and that, in any event, the Chief Clerk's position was no longer needed and the remaining duties to be performed could be assigned to the Agent under the "ebb and flow" principle, citing Awards 4288, 4355, 4477, 7311, 9330 and 10301 in support thereof. Petitioner has offered no evidence in the record to support the allegation that more than four hours' of work of the Chief Clerk's position remained to be performed or that the "ebb and flow" theory could not be applied in this case. Failing in the burden of proof, the claim must be dismissed.

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;

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That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Claim must be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: E. A. Killen
Executive Secretary

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