

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19439  
Docket Number CL-19405

Robert M. O'Brien, Referee

(Brotherhood of Railway, Airline and Steamship Clerks,  
( Freight Handlers, Express and Station Employees  
PARTIES TO DISPUTE: (  
(New York, Susquehanna and Western Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6952),  
that:

(a) Carrier violated Rule No. 20½ and other rules of the Clerks' Agreement, at Edgewater, New Jersey, when they allowed or required Mr. H. Downing's work to be performed by another Clerk on Saturdays, and

(b) Carrier shall be required to compensate Mr. H. Downing a day's pay, at the punitive rate, for December 27, 1969 and each subsequent Saturday that his work is performed by another employee or other employees, and

(c) In addition to the money amounts claimed herein, Carrier shall pay Mr. Downing an additional amount of 6% per annum compounded annually on the anniversary date of this claim.

OPINION OF BOARD: This claim involves interpretation of Rule 20½(e), Work On Unassigned Day Rule. The record reveals that Claimant is the regularly assigned incumbent to position of Agent at Edgewater, New Jersey, a five day assignment with rest days of Saturday and Sunday. A portion of Claimant's duties consists of preparing demurrage reports. Carrier requires these reports to be posted or filled in on Saturday but they refuse to allow Claimant to perform the work on Saturdays and have other employees who are also on assigned rest days, perform the work at the punitive rate.

It is the Organization's position that Claimant should be called to work on Saturdays to perform the demurrage work since the work is part of Claimant's Monday to Friday assignment and there were no furloughed or extra employees available to perform it.

Carrier's defense to this claim is that the Claimant does not have exclusive right to the work in dispute and that such work has been performed by Telegraphers, Clerks and Accounting personnel in the past, and thus is not work reserved exclusively to those covered by the Clerks' Agreement.

The issue of work on unassigned days has been before this Division on numerous occasions before. See, for example, Awards 12957, 18245, 18856, and 19039 upholding the regular incumbent's right to the work on unassigned days without proving exclusivity of the involved work.

Since there was no furloughed or extra employee available to perform the demurrage work, and since this work is performed by Claimant Monday through Friday, we find that Rule 20½(e) requires Carrier to use Claimant for the work in question on Saturdays. We will therefore sustain the claim.

We find no merit to the Organization's claim for 6% interest and we will not sustain that portion of the claim requesting interest.

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 violated.

A W A R D

Part (a) and (b) sustained.

Part (c) denied.

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By Order of Third Division

ATTEST:

  
Executive Secretary

Dated at Chicago, Illinois, this 17th day of October 1972.