

NATIONAL RAILROAD **ADJUSTMENT** BOARD

THIRD DIVISION

Award Number 19646
Docket Number CL-19437

Robert M. O'Brien, Referee

PARTIES TO DISPUTE: ((Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employes
(Chicago, Milwaukee, St. Paul and Pacific Railroad Company

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brotherhood (GL-6966)
that:

1) Carrier violated the Clerks' Rules Agreement at Milwaukee, Wisconsin when it failed and refused to properly compensate employee Francis Holzem for work performed on **the** following dates and positions:

<u>Date</u>	<u>Position No.</u>	<u>Rate of Pay</u>
1/29/70	09690	\$ 25.7450
2/3	07560	26.6271
2/12	09470	"
2/24	07500	25.9548
2/25	07500	"
2/26	09480	26.6271
3/3	07550	"
3/11	09840	"
3/17	07550	"
3/20	07550	"

2) Carrier shall compensate employee F. **Holzem** for the difference between the overtime rate of each position worked and the overtime rate of his regularly assigned higher Chief Clerk position.

OPINION OF BOARD: The issue involved herein is: Did the Carrier violate Rule 17 of the Agreement when it failed to compensate Chief Clerk Francis **Holzem** at the higher rate of his Chief Clerk's position when he filled various positions on an overtime basis on ten (10) dates in January, February and March, 1970.

The application of Rule 17 in overtime situations has been the subject of three prior **Awards** by this Board involving this Carrier - Award 17618 (Referee Dugan), Award 18945 (Referee Edgett) and Award 19458 (Referee **Devine**). These Awards sustained the claim of petitioner. We must follow these decisions herein and sustain this claim.

In addition to defending the claim for all ten (10) dates on its merits, Carrier raises procedural questions with respect to seven (7) of **the** ten (10) dates. They argue that the claims for January 29, February 2, 12, 24, 25, 26, and March 3, 1970 are out of time. From the record before us, we conclude that claims for these seven (7) dates are untimely and they will be dismissed.

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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 violated.

A W A R D

Claim sustained and dismissed **as** set forth in **the** Opinion of Board.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

E. A. Killen
Executive Secretary

Dated at Chicago, Illinois, this 27th day of February 1973.