

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19673
Docket Number CL-19620

Irwin M. Lieberman, Referee

(Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers. **Express** and Station **Employees**
PARTIES TO DISPUTE: (
(J. F. Nash and R. C. Haldeman, Trustees of the **Property** of
(Lehigh Valley Railroad **Company**, Debtor

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-7042)
that:

1. The Carrier **violated** the Rules Agreement as revised May 1, 1955, when it abolished position of **Clerk-Stenographer**, Transportation Department, assigning duties of **that** position to remaining Agreement covered positions in that Department, and: then **used** an Excepted **"P"** position employee to perform the work.

2. Claimant **employees** H. F. McKellin, M. M. Repsher, G. W. Dougherty and D. A. Reed or their **successors**, shall be compensated two (2) hours each at the **relative** rate, each and every day commencing with September 16, 1970, until such **time** as Mrs. Gloria Siegfried, employee holding the Excepted **"P"** position, is no longer permitted to perform the duties of the abolished position, and the work is returned to positions under full coverage of the Agreement, as assigned by **abolish-**ment notice dated August 24, 1970.

OPINION OF BOARD: The Petitioner brings this claim before the Board on two grounds: First, that there was no **Excepted "P"** position to which Mrs. Siegfried could be properly assigned following the abolition of her Clerk-Stenographer position; and Secondly, subsequent to her assignment to an Excepted **"P"** position she continued to perform the same duties of her previously abolished Clerk-Stenographer position.

With respect to the first contention, it is clear that Mrs. Siegfried, subsequent to the abolition of her Clerk-Stenographer position, was appointed to a vacant Excepted **"P"** position. This vacancy was caused by the promotion of its previous incumbent, Mrs. Kutos, to a position outside the Scope of the Agreement. The Organization argues that at the time Mrs. Kutos wasn't holding an Excepted **"P"** position. The Carrier, however, submitted evidence which clearly shows that Mrs. Kutos had, in fact, occupied an Excepted **"P"** position prior to her promotion. The Organization has not submitted evidence to the contrary. Accordingly, we find that there was an Excepted **"P"** position to which Mrs. Siegfried could be properly assigned.

The denial of the first part of Petitioner's argument still leaves us with the contention that fully covered work from the Clerk-Stenographer's position **s** assigned to the Excepted **"P"** position which Mrs. Siegfried now occupies. **Care-**ful examination of the record indicates that Petitioner's case is based, at best,

on unsupported allegations. There appears to be only one document to support the Organization's position that fully covered work was transferred to an **ex-cepted** position: a 1?-page list of file subjects, by file drawer, which Petitioner argues is evidence of the filing which had been handled by **Mrs.** Siegfried in her **Clerk -Stenographer's** position and which she allegedly still handles in her **Ex-cepted "P"** position. The mere submission of a list of subjects is not sufficient to show how the filing **was** done and by whom at anytime, both before and after the claim date.

This entire claim suffers from lack of proof; there is insufficient evidence to support the contentions Of Petitioner.

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, 1914:

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 23rd day of March 1973.