

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20110
Docket Number CL-20125

Dana E. Eischen, Referee

PARTIES TO DISPUTE: ((Brotherhood of **Railway**, Airline and Steamship Clerks,
(Freight Handlers, Express and Station **Employees**
(Southern **Railway Company**

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brotherhood (GL-7266)
that:

(a) Carrier violated the agreement at Atlanta, Georgia, when it refused to **upgrade** the rate of pay of the position of **Special Head Clerk** to conform to the rate paid for **commensurate** duties at **Washington, D. C.**

(b) **Carrier** shall be required to **compensate** Miss Looper at the rate of \$1.00 per day for each work **day** beginning sixty days prior to the date of **January 27, 1971**, and **continuing** until the matter is brought to a **conclusion**.

OPINION OF BOARD: On June 20, 1969, Carrier and Petitioner, **BRAC**, executed a **Memorandum Agreement** covering **operational** and organizational changes to be made in the **Purchasing** and **Material Management** Department, as a **result** of conference negotiations instituted by Carrier's notice of May 21, 1969 under **Article III, Section 2** of the so-called job-stabilization Agreement of April 3, 1965. The **Memorandum Agreement** provided **inter alia** for the establishment of three **new** clerical **positions** in the **Accounting** Department-in Atlanta, Georgia, each with a pay rate of **\$29.37 per day**. The June 20, 1969 **Memorandum Agreement** also provided that all persons then employed in the **Washington, D. C.** office **would** be given first preference for the various **new posi-**
tions thereby established.

Claimant, Miss Nancy M. Looper, then a Clerk in the **Washington, D.C.** office, applied for the **Special Head Clerk** position in Capital Accounting, Atlanta, with a **\$29.67 daily rate** of pay and duties bulletined on June 30, 1969 as follows:

"4. Preponderating duties: Assist in supervision and instruction of other employees in the **performance** of their duties.

Process all documents, such as journal entries, vouchers, bills, invoices, and **Valuation** reports necessary to record road, equipment and all other property changes in accordance with the **Uniform System** of Accounts and Valuation Orders as prescribed by the ICC or in accordance with sound accounting principles. Compile and maintain ICC and IRS depreciation records, and analyses, prepare and review **statements** related thereto.

"Review computer edits and control balances, prepare proper file maintenance and follow through to accomplish completed reports.

Analyze accounts and prepare **and/or** review reports related to Capital Accounting."

Claimant was successful bidder for the above mentioned position and was assigned thereto by bulletin dated July 17, 1969.

As of January 1971, Claimant's daily pay rate was \$34.85, as a result of periodic general wage increases obtained by clerical employees on the property. On January 25, 1971 Petitioner filed on behalf of Claimant a request "that her rate of pay be increased one dollar per day to conform to the rate paid over a period of years for **commensurate** duties in Washington, D.C.", alleging that the rate was not transferred with the work from Washington to Atlanta. This request was filed under Rule 40(b) of the revised Agreement between the parties, reading as follows:

"Rule 40 -- Discipline and Grievances (Revised, effective October 1, 1938)

* * * 6 *

(b) Employees feeling an injustice has been done them, or having a grievance, may always submit their case to their superior officer for consideration and review, and shall have the privilege of appealing to the next ranking officer, provided such appeal is made in writing within thirty (30) days after the reviewing officer has rendered his decision."

Carrier has denied the claim on the grounds of untimeliness and because the rate and position both were established pursuant to the negotiated Memorandum Agreement of June 20, 1969. Carrier maintains that the proper channel for achieving **modifications** therein is through contract negotiations and not via the grievance procedure of the controlling Agreement and ultimately an Award of this Board.

It is well established that this Board has no jurisdiction to create new rates of pay. Under the circumstances here, since the rate was established pursuant to negotiated agreement, the proper remedy or technique for changes therein is through negotiations and agreement of the parties under the Railway Labor Act. See Awards 2682 (Carter), 4123 (Robertson), S093 (Coffey) 8748 (Bailer). 12724 (**Coburn**), 15225 (Hall). Accordingly, the claim must be and is hereby dismissed.

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FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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 claim should be dismissed.

A W A F D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
In Order of Third Division

ATTEST:-

A.W. Paulos
Executive Secretary

Dated at Chicago, Illinois, this 25th day of January, 1974.