

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20789
Docket Number CL-20762

Francis X. Quinn, Referee

(Brotherhood of Railway, Airline and Steamship
(Clerks, Freight Handlers, Express and
(Station Employees

PARTIES TO DISPUTE: (
(Western Maryland Warehouse Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-7551) that:

1) Carrier violated provisions of the Clerks' Agreement when it failed to call **R. M. Mortimer** to work as **Talleyman** and instead used junior **employee H. Hoffnagle** on November 8, 10, 11, 14, 15, 17 and 21, 1972, December 6, 11, 12, 1972 and January 17, 18, 19, 23 and 25, 1973;

2) Carrier used junior **employee H. Hoffnagle** at overtime and failed to call **R. M. Mortimer** on November 9, 1972 (4 hrs.), November 10 and 11, 1972 (Total of 4½ hrs.), January 18, 1973 (½ hr.).

OPINION OF BOARD: The lack of evidence of probative value to support
Petitioner's allegation Leaves the Board in the position of having to decide the issue on assumption. This we cannot properly do. It must be held, therefore, that Petitioner has failed to meet the requirements of the burden of proof doctrine.

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 not violated.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A.W. Paulice
Executive Secretary

Dated at Chicago, Illinois, this 31st day of July 1975.