

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21275  
Docket Number CL-21130

Joseph A. Sickles, Referee

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

**PARTIES TO DISPUTE:** (

(The Detroit and Toledo **Shore Line** Railroad Company

**STATEMENT OF CLAIM:** Claim of the **System** Committee of the Brotherhood,  
GL-7077, that:

1. The Carrier violated the effective Clerks' **Agreement** when it arbitrarily and improperly established a rate of pay for the new position of No Bill - Car Service Clerk without prior negotiation between the parties;
2. The Carrier shall now **be required** to establish, through negotiations, a proper rate of pay for the position of No Bill - Car Service Clerk;
3. The Carrier shall now be required to compensate Clerk H. C. **Tooman**, and/or his successor **or** successors in interest; **namely**, any other **employee** who may have stood in the **same** status as claimant, and who was adversely affected, the difference between the rate of pay of the No Bill - Car Service Clerk, established through negotiations, and the rate of pay arbitrarily established by the Carrier (\$43.4944 per day) **commencing on** April 8, 1974 and for each and every day thereafter, five days per week, Monday through Friday, that a like violation exists;
4. The Carrier shall now be required to compensate all other employees who were adversely affected, for the difference between the rate of pay they received and that which **they would** have received had the Carrier properly established a rate of pay by negotiation for the position of No Bill - Car Service Clerk and bulletined said position in accordance with Rules 9 and 10 of the **applicable Agreement**, to be **determined** by a joint check of the Carrier's records, **commencing** April 8, 1974 and for each and every day thereafter that a like violation occurs.

**OPINION OF BOARD:** Although this dispute is concerned **with** the position of "No Bill - Car Service Clerk" and certain of the dates are different, the same basic facts, issues and concepts before us **in** this Docket were **presented** to us **in Award No. 21274**. **For the same reasons** stated in **our Award No. 21274**, we **dismiss** this **claim** for failure of proof.

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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 claim be dismissed for failure of proof.**

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD

By Order of Third Division

ATTEST:

A. W. Paulos  
Executive Secretary

Dated at Chicago, Illinois, this 15th day of October 1976.