

NATIONAL RAILROAD **ADJUSTMENT** BOARD

THIRD DIVISION

Award Number 21276  
Docket Number CL-21139

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-7879, that:

1. That the Carrier violated the effective Clerk;' Agreement **when** it arbitrarily and **improperly** established a rate of pay for the new position of Rate and Bill Clerk No. 1 without prior negotiation between the parties;
2. That the Carrier shall now be required to establish, through negotiations, a proper rate of pay for the position of Rate and Bill Clerk No. 1;
3. The Carrier shall now be required to compensate Clerk Mary C. Del Bmcco, and/or her 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 Rate and Bill Clerk Position No. 1 established through negotiations; and the rate of pay arbitrarily established by the Carrier (\$43.4944 per day) **commencing** on April 4, 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 rates 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 Rate and Bill Clerk No. 1 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 records, **commencing** April 4, 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 "Rate and Bill Clerk No. 1.", 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.

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 Carder **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.