

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21789  
Docket Number CL-21671

James F. Searce, Referee

(Brotherhood of Railway, Airline and  
( Steamship Clerks, Freight Handlers.  
( Express and Station Employees  
PARTIES TO DISPUTE: (  
(Norfolk and Western Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood,  
GL-8127, that:

1. Carrier **violated** and continues to violate the Agreement between the parties when on **February 17, 1974**, a new position of **Assistant Office Manager** was **created** as a fully excepted position with clerical duties assigned, **which** had previously been performed by clerical employes at Buffalo, New York.

2. Carrier shall pay A. Valente **eight** (8) hours punitive rate for **February 17, 1974, and each** Sunday thereafter until **July 1, 1975**, when the work was returned to contract employes.

OPINION OF BOARD: This claim arises out of the reassignment by Carrier of a supervisory position from the night shift (12 Midnight to 8:00 A.M.) to the day shift (8:00 A.M. to 4:00 P.M.). Petitioner alleges that on the day shift the supervisor performed certain duties such as tracing cars, **making** reports, general office duties, etc., which should have been performed by clerical employes.

Cur review of the record submitted to this Board by petitioner reveals **that** it contains little more **than** unsubstantiated allegations and assertions. Petitioner has offered no proof that **any** of **the** items of work were, in fact, performed by the supervisory employe. The Carrier, on the other **hand**, denied that the supervisory employe performed **any** service which accrued exclusively to clerical employes. Petitioner, in its **ab-**  
**breviated** rebuttal to the Board did nothing to refute the Carrier's asser-  
tions of fact thereby leaving material **factual** statements **uncontroverted**  
and undenied.

Given the paucity of evidence brought forth by petitioner on the essential points of its claim, we have no alternative but to conclude

that the record does not support its claim. In order to prevail in this case, petitioner was required to establish its claim by a preponderance of probative evidence. This they have not done. We must dismiss the 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 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 WA R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

A. W. Paulos  
Executive Secretary

Dated at Chicago, Illinois, this 18th day of November 1977.

