

NATIONAL RAILROAD **ADJUSTMENT** BOARD

THIRD DIVISION

Award Number 21842
Docket Number Cl-21832

John **P.** Mead, Referee

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

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(**GL-8213**) that:

(1) Carrier violated the Agreement between the parties at **Grafton**, W. Va. when **it** refused to allow Miss C. Williams the difference between the rate of pay of the position held by her (Clerk-Steno) and rate of pay of position of Secretary to Division Manager on July 30, 31; August 1, 1973 and all subsequent work days on which she was required to perform such higher-rated work.

(2) Carrier shall compensate Claimant Williams in the amount and on all dates as claimed in Item **(1)** above.

OPINION OF BOARD: Here we have a claim on behalf of a clerk/steno for the difference between the rate of the position held by her and the rate of the position of secretary to the Division Manager alleging that the clerk/steno was required to perform duties assigned exclusively to the secretary position.

We have carefully reviewed the entire record in this case and have considered the arguments advanced by the parties. We are, however, unable to find in the record that petitioner has substantiated its allegations relative to claimant performing any "higher-rated work" to justify the payment of the secretary's rate of pay. **As was** said in Award No. 20290 (Sickles): " * * * In order to prevail the moving party must establish its claim by a preponderance of probative evidence. * * *."

Given the paucity of probative evidence adduced by the organization in this case, we have no alternative but to conclude the record does not support the claim as presented. We must, therefore, deny 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 W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: *A. W. Paulson*
Executive Secretary

Dated at Chicago, Illinois, this 6th day of January 1978.

