

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21967
Docket Number CL-21829

Don Hamilton, Referee

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

PARTIES TO DISPUTE: (

(Consolidated Rail Corporation
((**Former** Lehigh Valley Railroad Company)

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(**GL-8214**) that:

(a) **The** Carrier violated the Rules Agreement, particularly Rules 1, 3, 6, 7, 43, 44 and other Rules, as well as the Extra List Agreement, when it assigned and permitted **Mr.** T. Ferry to perform the duties of Lead Clerk, Flexo Writer, 7:00 A.M. to 3:00 P.M., on the following dates: February 15, March 1, 8, 15, 22 and 29, April 5, 1975, at Washington Street, Jersey City, New Jersey.

(b) Claimant John Baggar, be allowed one (1) day at eight (8) hours at the time and One half rate of pay for the above mentioned dates, continuing until the violation is corrected.

OPINION OF BOARD: **The** Claimant was regularly assigned as Lead Clerk with rest days Saturday and Sunday. The Organization alleges that work necessary to be **performed** on **the** rest days of the position accrues to the incumbent unless there is an available extra employee who does not have forty hours **in** his **workweek**. **It is the** position of the Brotherhood **that** the individual used **on** the dates of the claim, all of which are Saturdays, is not a bona fide employee.

Questions raised by the Organization in regard to seniority are not controlling in this case. Mr. Ferry was a bona fide **employee** and the Carrier acted properly in assigning him to perform the duties of Lead Clerk on the dates in question.

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;

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That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

A W A R D

NATIONALRAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A.W. Pauls

Dated at Chicago, Illinois, this 31st day of March 1978.

