

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21978
Docket Number CL-21575

Irwin M. Lieberman, Referee

(Brotherhood of Railway, Airline and
(Steamship Clerks, Freight **Handlers**,
(**Express** and Station **Employees**
PARTIES TO DISPUTE: (
(Kentucky & Indiana Terminal Railroad **Company**

STATEMENT OF CLAIM: Claim of the **System** Committee of the Brotherhood,
668117, that:

1. Carrier violated the **terms**, spirit, intent, and rules of the current working Agreement, particularly Rules 1, **18(f)**, 52, 53, 54, when effective November 1, 1974 the position of Storehouse Foreman **was** abolished with **some** of the remaining work of this position being absorbed by an **employee** not covered by the Agreement while other duties of the position were assigned to positions **having** lower rates of pay.

2. Carrier shall, because of the violations cited **in (1)** above, compensate Mr. L. R. Thompson, his **successor and/or** relief, in addition to his regular rate of pay, \$3.02 per day for **each** day, Monday through Friday, **November 1**, 1974.

3. This is a continuing **claim** for each day, Monday through Friday, beginning November 1, 1974.

OPINION OF BOARD: This dispute involves **the** disposition of work after the abolishment of the **Storehouse Foreman's** position, upon the **incumbent's** retirement.

Initially, Carrier raises a jurisdictional **argument** asserting that the Organization had an obligation to engage in certain **negotiations** before bringing this dispute to this Board. We do not find merit in this contention; the dispute herein **was progressed in conformity with the** Railway Labor Act, **as amended**.

Petitioner alleges **that** the work of the **Foreman** remained after his retirement and was performed by Claimant, or **other** positions having lower rates of pay as well as by an **employee** not **covered** by the Agreement. The theory of the case is well argued by **Petitioner**, including a host of precedent awards dealing with like problems. The only difficulty is that the factual basis for the Claim was not established **on** the property.

A careful examination of the record of the dispute indicates that there were four specific allegations with respect to function made by Petitioner during the processing of the Claim: that there were **supervisory** functions remaining after the retirement; that Claimant sat at the desk of the former Foreman; that Claimant answered the telephone which had been answered by the **Foreman** previously; and Claimant checked **in** material and placed a stamp on **invoices**. In support of its factual assertions, **Petitioner** submitted, **as** the most relevant **evidence**, a statement from **Claimant** which **merely** asserted that he had **assumed** all of the remaining duties of the Storehouse **Foreman**. There is no delineation of any specific functions. Carrier asserts that Claimant did not **assume any** supervisory functions and that the remaining supervision was continued (as in the past) directly by the Assistant Manager of the Department, who had exercised such **supervision** previously through the For-. Carrier notes that there were now only three **employees** involved in the Storehouse, including Cla-t. It is apparent that sitting at a desk and answering a telephone is not work reserved to a supervisory position, and had not been so **reserved** here, although it was acknowledged that Claimant did indeed sit at the Foreman's desk. With respect to checking in material and placing a stamp on invoices, Carrier asserted, without rebuttal, that the entire **stores** personnel verified **material** received and placed **stamps** on invoices to that effect.

It **must** be concluded that the record contains substantial argument **and** allegation but is devoid of specific evidence to prove **that** the Storehouse Foreman's duties continued to exist **as** alleged by Petitioner. (See Award 4992.) The Claim **must** be denied.

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, 1954;

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

That the Agreement was not violated.

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Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: *A. W. Pauls*
Executive Secretary

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