

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number **22621**
Docket Number CL-22462

George S. Roukis, Referee

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

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-8559) that:

1. The Western Pacific Railroad Company violated the Letter of Understanding dated August 18, 1965, **A-111-Rev.** of Schedule **Rule 2(6)** when it arbitrarily abolished and consolidated the position of the Oakland Switching Clerk and assigned the duties of Timekeeping to the Assistant Agent.

2. The Western Pacific Railroad Company shall now be required to allow Mr. D. Cartagena eight (8) hours pay at the pro rata rate from December 8, 1976, until February 16, 1977 at which time the Agent, Mr. G. S. **Nilsson** issued instructions to all **employees** to record their **own** payroll record.

OPINION OF BOARD: Before going to the merits of this claim we **must** dispose of a procedural argument advanced by the Carrier that the claim before us is cut of time. In January, 1975, the Carrier transferred certain pay (time-keeping) work from a fully covered position to a partially exempt position. This transfer of work the Organization argues, violated the **Letter** of Understanding of August 18, 1965 wherein the parties agreed that work would not be transferred from fully covered jobs to partially exempt jobs. On March 25, 1975 the Organization filed a claim that this transfer violated the **agreement**. This claim was handled to the Carrier's highest officer and was denied by him on August 29, 1975. Thereafter the matter was permitted to lapse.

The claim we have before us was filed on February 5, 1977. That claim, as we see it, involves the same transfer of work that occurred in January, 1975. The Carrier **argues** that because it involves the same transfer that occurred in January, 1975, and this

transfer was **covered** by the claim that was filed on March 25, 1975 and permitted to default, the instant claim is barred.

We agree. **Only** one transfer of work occurred. This transfer it is alleged, violated the proscription in the Letter of Understanding of August 18, 1965 against transferring work from fully covered jobs to partially excepted jobs. A claim was filed but was not progressed. A new claim cannot be progressed because it is factually not a **similar** claim, which might be meritable, but the same claim.

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;

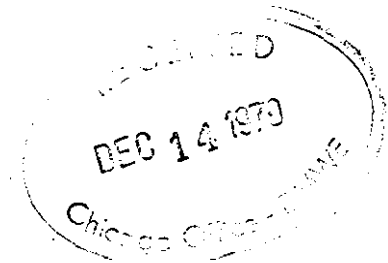
That ~~the~~ Carrier and the Employees involved in this dispute are respectively Carrier and **Employees** within the meaning of the Railway Labor Act, as approved June 21, 1934;

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. Pauls
Executive Secretary

Dated at Chicago, Illinois, this **9th** day of **November** 1979.