

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22804

Docket Number CL-22842

George E. **Larney**, 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-8726)  
that:

(1) Carrier violated the Agreement in effect **between** the Parties when, beginning February 2, 1976, it required Craw Dispatchers located at **Cumberland**, Maryland, to perform higher-rated Caller work and **service**, that which was diverted from, and formerly **performed** by, Western Maryland Railway clerical employees at **Hagerstown**, Maryland, without benefit of proper compensation, and

(2) Carrier, as a result of such improper action, shall now be required to compensate the employees affected by such material change, the difference between the compensation **allowed** and the compensation claimed, as set out below, **commencing** February 2, 1976, and continuing each subsequent work date until the violation is corrected:

<u>Employee</u>	<u>Amount Claimed</u>	<u>Amount Allowed</u>
J. S. Castle	\$ <b>61.44</b>	\$ 57.16
H. F. <b>Dawson</b>	56.34	50.46
J. <b>E. Beesick</b>	56.34	53.61
<b>W.</b> R. Bearinger	56.34	50.09
V. G. Wharton	56.34	53.61
C. A. Clark	56.34	50.03
R. L. Slaughter	56.34	<b>50.09</b>
W. P. Chidester (Relief)	56.34	<b>Various</b>
C. R. <b>McCreary</b>	56.34	50.03

OPINION OF BOARD: **On** December 31, 1975, the parties entered into a mutual agreement to take effect on February 2, 1976 which provided that, all the **employees** and work of the class or craft **commonly** known as Clerks, Telegraphers and other office, Station and Storehouse Employees originally **covered** by the General Agreement revised January 1, 1972 between the Western Maryland Railway Company and the Brotherhood of Railway, Airline and Steamship Clerks (BBAC), be placed under the General Agreement



effective June 4, 1973 between the Baltimore and Ohio Railroad Company (**B&O**) and BBAC. Pursuant to the terms of the February 2, 1976 Agreement, the **names** and seniority dates of all Western Maryland clerical employees were merged and dovetailed onto the appropriate Baltimore and Ohio clerical seniority roster. Also pursuant to the February 2, 1976 **Agreement**, there was effected an integration of the B&O and Western Maryland yard switching operations on January 5, 1976, and subsequent integration of parts of the **B&O** and Western Maryland road service as well.

**Prior** to the consolidation of B&O and Western Maryland clerical work on February 2, 1976, the calling of Western Maryland train and engine service employees on the entire System was done by employees in a Centralized Crew Calling Office at Eagerstown, Maryland. **However**, effective February 2, 1976, the Claimant Crew Dispatchers were required to begin calling Western Maryland train and engine service employees assigned to the extra lists at Cumberland. In addition, some of the calling of Western Maryland road crews operating out of Cumberland was assigned to the Claimant Crew Dispatchers at Cumberland, work previously done by the Western Maryland Crew Dispatchers at **Eagerstown**, Maryland. In all, the work of calling crews for five (5) Sub-divisions was transferred from Crew Dispatchers at Eagerstown, Maryland to Crew Dispatchers at **Cumberland**, Maryland.

It is the position of **Petitioner** that the transferred work of calling crews assigned the Claimant Crew Dispatchers at Cumberland entitles them to the higher rate of pay received by the Crew Dispatchers at Eagerstown. This transferred work, Petitioner maintains, materially changed the quantity and conditions of the work and positions at the Crew Dispatchers Office at Cumberland. In support of its position, Petitioner alleges Carrier is in violation of **Rules** 16 and 17 of the Agreement, effective June 4, 1973, which read in whole as follows:

ROLE 16

Reservation of Bates

- (a) Employees temporarily assigned to higher rated positions, shall receive the higher rates for four (4) hours' work or less, and if held on such positions in excess of four (4) hours, a minimum of eight (8) hours at the higher rate. Employees temporarily assigned to lower rated positions shall not have their rates reduced.
- (b) A "temporary assignment" contemplates the fulfillment of the duties and responsibilities of the position **during** the time occupied, whether the regular occupant of the



position is absent or whether the temporary assignee does **the** work irrespective of the presence of the regular employee. Assisting a higher rated employee due to a temporary increase in the **volume** of work does **not** constitute a temporary assignment.

**RULE 17**

Change In Duties and New Positions.

When new positions are created, duties of existing positions materially changed or duties of existing positions changed from one class to another, compensation will be fixed in conformity with the **same** class and character of positions as are specified in the wage scale for the portion of the division on which located, and the rules will apply to employees filling such positions; provided, **the** entering of employees in the positions occupied in the service or changing **their** classification or work shall not operate to establish **a** less favorable rate of pay or condition of employment than is herein established. **New** rates of pay to be effective from date first taken up by the representative of the employees.

(It is understood that when increases **are** granted under the terms of this paragraph to certain positions on account of increased duties, such increases will be eliminated when the increased duties for which the increase was granted **are** discontinued.)

Upon a **careful and** thorough review of **the** record, we find that Rule 16 has no application at all to the instant dispute as none of the Claimants were temporarily assigned to higher rated positions. Rather, this dispute concerns work **made** a regular part of **the** Claimants' positions. With respect to **Rule 17**, said rule embodies a formula for fixing compensation when new positions are created, when duties are materially changed or when existing positions are changed from one class to **another**. **We** find in the instant case no **new** positions created nor a change in existing positions from one class to another. Furthermore, we are unable to find in the record a preponderance of probative evidence which supports Petitioner's allegation that the work transferred from the Crew Callers Office in **Hagerstown** to the Crew Callers Office in **Cumberland** in any way materially changed the work of the Claimant Crew Dispatchers. Rather, we find that even though the transferred work resulted in an increase **in** the number of train and engine service **employees** to be called by the Claimant Crew **Dispatchers**, **nonetheless**, the nature of the work involved **remained** the same. We **find nothing** in the record to dispute the fact that subsequent to February 2, 1976 when the



transferred work took effect, the Claimant Crew Dispatchers continued to work eight (8) hours per day calling crews the same as they had always done.

Based on the foregoing discussion, we find nothing in the record to support the claim as advanced by Petitioner in the **instant** case. We therefore dismiss the claim on account, 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** dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

*A.W. Paulos*  
Executive Secretary

Dated at Chicago, Illinois, this 31st day of March 1980.

