

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22994
Docket Number CL.-22642

Joseph A. Sickles, Referee

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

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brotherhood (GL-8611)
that:

CLAIM #1 -

1. Carrier **violated** the Agreement between the parties when on **December** 27, 1976 the duties of the six separate **clerical** positions in the Division **Engineers** office were re-arranged and intermingled.
2. Carrier shall now pay E. S. Robertson the difference in rate for December 27, 1976 and each date thereafter that she is required to perform the duties previously assigned to the higher rated **positions**.
3. Carrier shall now pay R. J. Klein **the** difference in rate for December 27, 1976 and each date thereafter that he is required to perform **the** duties previously assigned to the higher rated positions.

CLAIM #2 -

1. Carrier violated **the** provisions of the April 1, 1973 Master Agreement particularly Rules 49 and 50 thereof, when on January 14, 15, 17 and 23, 1977, it required Claimant T. J. O'Conner, Crew Dispatcher, (53.8608) to perform **the** duties of Chief Clerk (\$54.3219).
2. Carrier **will** now pay Claimant the **difference** in rates of the position or **\$.4611** per day for each claim date and all subsequent dates thereafter.

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CLAIM #3 -

1. Carrier violated the provisions of the April 1, 1973 Vaster Agreement particularly Rules **49** and 50 **thereof**, when on **January** 23, 29, 30, February 5, and 7, 1977 it required **Claimant** R. B. Harlan, 1st Trick Crew Dispatcher, daily rate, \$53.8608 to perform the duties of Chief Clerk, daily rate, \$54.3219.
2. Carrier **will** now pay Claimant the difference in rates of the position or **\$.4611** per day for each claim date and **all** dates subsequent thereafter.
3. Carrier violated the provisions of the April 1, 1973 **Master** Agreement particularly Rules 49 and 50 thereof, **when** on January 31, 1977 it required **Claimant** R. B. Harlan, 2nd Trick Crew Dispatcher, daily rate \$52.0680 to perform the duties of **Chief** Clerk, daily rate \$54.3219.
4. Carrier will now pay Claimant the difference in rates of **the** positions or \$2.2539 for January 31, 1977 and each subsequent date thereafter.

CLAIM #4 -

1. Carrier violated the provisions of the April 1, 1973 **Master** Agreement **particularly** Rules 49 and 50 thereof, when on January **10**, 11, 12, 13, 14 and 17 1977 **it** required Claimant S. R. Seymour, 1st Trick **Crew** Dispatcher (\$53.8608) to perform the duties of Chief Clerk (\$54.3219).
2. Carrier will now pay Claimant the difference in rates of the positions or **\$.4611** for January 10, 1977 and each subsequent date thereafter.

CLAIM #5 -

1. Carrier **violated** the provisions of **the** April 1, -1973 Master Agreement particularly Rules 49 and 50 thereof, when on January 10, 1977 it required Claimant G. E. Burton, 3rd Trick Caller (\$52.0580) to perform the duties of 3rd Trick Chief Clerk (\$52.7992).
2. Carrier will now pay Claimant the difference in rates of the positions or **\$.7312** for January 10, 1977 and each subsequent date thereafter.

CLAIM #6 -

1. Carrier violated the provisions of the April 1, 1973 **Master** Agreement particularly Rules 49 and SO thereof, when on April 30, 1977 it required **Claimant** G. E. Burton, 3rd Trick Crew Dispatcher (\$55.5488) to perform the duties of 3rd Trick IBM Operator (\$58.4568)
2. Carrier will now pay Claimant the difference in rates of the positions or \$2.9080 for April **30**, 1977 and each subsequent date thereafter.

CLAIM #7 -

1. Carrier violated the provisions of the April 1, 1973 **Master** Agreement particularly Rules 49 and SO thereof, when on July 1, **6**, 7, 8, 11, 12, 13, 14. 15, **19**, 20, 22. 25, August **1**, 2, 3 and 4, 1977 it required Claimant **J. B. Spilman**, Caboose **Supplyman** (\$54.3944) co perform the duties of **Assis-**
tant Chief Yard Clerk (\$56.3096).
2. Carrier will now pay **Claimant** the difference in rates of the positions **or** \$1.9152 for each claim date.
3. Carrier violated the provisions of the April 1, 1973 **Master** Agreement particularly Rules 49 and SO thereof, when on July 4, 1977, it required Claimant **J. B. Spilman**, Caboose Supplyman (\$54.3944) co perform the duties of **IBM** Operator (\$58.5896).
4. Carrier will now pay Claimant the difference in rates of **the** positions or \$4.1952 **for** July 4, **1977**.

CLAM #8 -

1. Carrier violated the provisions of the April 1, 1973 blaster Agreement particularly Rules 49 and 50 thereof, **when** on May 18, 21, June 2, 8, 17, 22, 24, July 1, 8, 9, 13, 14, 16, 21, 22, 23, 24, 27, 28, 29, **30**, August 4, 6 and 7, 1977, **it** required Claimant C. R. Winscott, Caboose **Supplyman** (\$54.3944) to perform the duties of **IBM** Operator (\$58.5896).
2. Carrier will now pay Claimant the difference in rates of the positions or \$4.1952 for each claim date.

CLAIM #9 -

1. Carrier violated the provisions of the April 1, 1973 **Master Agreement** particularly Rules 49 and 50 thereof, when on **July 7** and August 4, 1977 it required Claimant P. R. **Cavanaugh**, Caboose Supplyman (\$54.3944) to perform the duties of Chief Yard Clerk (\$57.7568).
2. **Carrier** will **now** pay Claimant the difference in rates of **the** positions or \$3.3624 for each claim date.

CLAIM #10 -

1. Carrier violated the provisions of **the** April 1, 1973 **Master Agreement** particularly Rules 49 and **50** thereof, when on August **10** and 12, 1977 it required Claimant C. R. Winscott, Caboose Supplyman (\$54.3944) to perform the duties **of** 3rd Trick IBM Clerk (\$58.5896).
2. Carrier will now pay Claimant the difference in rates of the positions or \$4.1952 for each claim date.

CLAIM #11 -

1. Carrier violated the provisions of the April 1, 1973 **Plaster Agreement** particularly Rules 49 and 50 thereof, when on July 29, August 8, 9, 10, 15, 16 and 17, 1977 it required Claimant **J. B. Spilman**, Caboose **Supplyman** (\$54.3944) to perform the duties of Assistant Chief Yard Clerk (\$56.3096).
2. Carrier will now pay Claimant the difference **in rates** of the positions or \$1.9152 for each claim date.

CLAIM #12 -

1. Carrier violated the provisions of the April 1, 1973 **Master Agreement** particularly Rules 49 and 50 thereof, when on March 20, 1977 it required Claimant O.B. Robinson, Caboose **Supplyman** (\$54.3944) to perform the duties of Assistant Chief Yard Clerk (\$56.3096).
2. Carrier **will** now pay Claimant the difference in rates of **the** positions or \$1.9152 for **March 20**, 1977 and all dates subsequent thereto.

CLAIM #13 -

1. Carrier violated the provisions of the April 1, 1973 Master Agreement particularly Rules 49 and 50, when on September 1, 2, 6, 7, 8, 9 and 12, 1977 it required Claimant **D. W. Ward**, Caboose **Supplyman** (\$54.3944) to perform the duties of Chief Yard **Clerk** (\$58.1568).
2. Carrier will now pay Claimant the difference in rates of the positions or \$3.7624 for each claim date.

CLAIM 814 -

1. Carrier violated the provisions of the April 1, 1973 Master Agreement particularly Rules 49 and 50, when on May 10, 12, 13, 16, 17, 18, 19, 20, 24, **25, 26**, 31, June 1, 2, **6**, 7, 9, 10, 13, 14, 15, 16, 17, 20, 21, 22, 23, 27, 28, 29 and 30, 1977 it required Claimant **J. B. Spilman**, Caboose **Supplyman** (\$54.3944) to perform the duties of Chief Yard Clerk (\$58.1568).
2. Carrier will now pay Claimant ~~the difference~~ in rates of the positions or \$3.7624 for each claim date.

CLAIM #15 -

1. Carrier violated the provisions of the April 1, 1973 Master Agreement particularly Rules 49 and 50, when on April 13, 14, 17, **20**, 22, 24, 27 and May 5, 1977 it required Claimant **M. D. Samp**, Caboose **Supplyman** (\$54.3944) to perform the duties of IBM Operator (\$58.5896).
2. Carrier will now pay Claimant the difference in rates of the positions or \$4.1952 for each day of claim.

CLAIM #16 -

1. Carrier violated the provisions of the April 1, 1973 Master Agreement particularly Rules 49 and 50, when on May 3, June **5**, 6, 7, 14, 15, 18, 19, 20, 21, 27, 28 and 29, 1977 it required Claimant **T. J. O'Conner**, Caboose **Supplyman** (\$54.3944) to perform the duties of Chief Yard Clerk (\$58.1568).
2. Carrier will now pay Claimant the difference in rates of the positions or \$3.7624 for each day of **claim**.

CLAIM #17 -

1. Carrier **violated** the provisions of the April 1, 1973 Master Agreement particularly Rules 49 and 50, when on **May** 15, 1977 it required Claimant R. L. Seeley, Caboose **Supplyman** (\$54.3944) to perform the duties of **IBM** Operator (\$58.5896).
2. Carrier **will** now pay Claimant the difference in rates of the positions or \$4.1952 for claim date.

CLAIM #18 -

1. Carrier violated the provisions of the April 1, 1973 Master Agreement particularly Rules 49 and 50, when on April 14, 1977 it required Claimant P. R. **Cavanaugh**, Caboose Supplyman (\$54.3944) to perform the duties of Chief **Yard Clerk** (**\$58.1568**).
2. Carrier will **now** pay Claimant the difference in rates of the positions **or \$3.7624 for April 14, 1977.**

CLAIM #19 -

1. Carrier violated the provisions of the April 1, 1973 **Master** Agreement particularly Rules 49 and **50**, when on September 13, **15**, 16, 20, 21, 22, 23 and 27, 1977 it required Claimant D. W. Ward, Caboose **Supplyman** (\$54.3944) to perform the duties of IBM Operator (\$58.5896).
2. Carrier will now pay Claimant the difference in rates of positions or \$3.7624 for each claim dates.

CLAIM #20 -

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1. Carrier violated the provisions of the April **1**, 1973 Master Agreement particularly Rules 49 and 50, when on August 24, 25, 27 and 31, 1977, it required Claimant C. R. Winscott, Caboose **Supplyman** (\$54.3944) to perform the duties of 3rd Trick IBM Clerk (\$58.5896).
2. Carrier will now pay Claimant the difference in rates of the positions or \$4.1952 for each claim date.

CLAIM #21 -

1. Carrier violated the provisions **of** the April 1, 1973 **Master** Agreement particularly Rules 49 and 50, when on October 7 and 13, 1977 it required Claimant Earl **Harris**, Caboose **Supplyman**, (\$54.3944) to perform the duties of Operator (\$58.4568).
2. Carrier will now pay Claimant the difference in rates **of the** positions or \$4.0624 for each **claim** date.

OPINION OF BOARD: We have reviewed, at length, the rather extensive record presented to us, and we have contemplated the number of claims which suggest (in various form and content) that the Carrier has violated the agreement in the **various determinations** it has made concerning rearrangement **and intermingling** of positions, improper assignments **and** other related alleged violations.

As we have reviewed the claims, and the nature of the asserted violations, we note that there were **certain** changes of a permanent basis and, therefore, the **Organization** cannot base its case upon a "preservation of rates" **argument**.

Whatever the obligations may be to negotiate concerning changes of a permanent nature, after a thorough **and** extensive review of the record, we are of the **view** that the Organization simply has not set forth the basis for its claims in this case, and we have no alternative but to dismiss the claims accordingly.

The Carrier has raised **certain** procedural objections to the **manner** in which the dispute was prosecuted by the Organization. In our view, the record is too inconclusive to substantiate the Company's **allegations** in that regard **and**, accordingly, we refrain **from** issuing a definitive ruling concerning the procedural objection.

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;

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

That the claim be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Pauline
Executive Secretary

Dated at Chicago, Illinois, this 29th day of September 1980.