

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23231  
Docket Number E-22977

James F. Searce, Referee

PARTIES TO DISPUTE: (Flora M. Sheehan  
(Southern Pacific Transportation Company (Pacific Lines)

STATEMENT OF CLAIM:

1. The Southern Pacific Transportation Company violated the Clerks Agreement when it abolished Position 79, **Lead Clerk**, by Notice No. 547, and also issued Notice No. 546 **abolishing Positions** No. 50, 51, 52 and 1 from Roster 2 and **transferring** the work thereof to Portland **Communications - Clerks Basic Roster 7**:
2. The Southern Pacific Transportation Company shall now be required to allow **Mrs. F. M. Sheehan** eight (8) **hours** additional compensation, **May 24, 1977**, and each calendar day thereafter except Saturdays and Sundays:
3. The Southern Pacific Transportation Company shall now be required to restore Position 79, **Lead Clerk**, to Portland **Communications - Roster No. 7**, and to restore work **and/or** positions of Manager **and Wire Chief Positions Nos. 50, 51, and 52** and Relief **Position** No. 1 to **Basic Roster PD-2 and Master Roster No. 3**.

OPINION OF BOARD: The dispute in this case arises out of **the** Carrier's abolishment of four (4) wire **chief** positions at its Portland "DW" Telegraph Office and the transfer of such work to four (4) new wire chief **positions** to be established elsewhere and, more importantly, on a different seniority roster. Intent of such **impending** change was conveyed to the **Organization, which was** to be accomplished per the applicable provision -- **Article III, Section 2(a)**:

"When a carrier party hereto **desires** to transfer positions **and/or** work between seniority **rosters**, districts and/or regions on **its own** lines, or when a carrier party hereto desires to transfer positions and/or work to another carrier party hereto, 90 days' advance notice will be given appropriate General Chairman **or** General Chairmen. Such notice shall contain the **following** detailed information: ..."

Objection **was raised** by the **Organization** after such **rearrangement**, **contending** a violation of Article III, Section 2(c):

**"This section covers only transfer of positions and/or work as referred to in this agreement and shall not be applied so as to result in consolidation or elimination of rosters."**

After handling on the property, the Organization determined not to pursue the matter further; **the Claimant herein**-- the affected **employee** - chose to do so.

Without addressing the one or **more** procedural defenses raised by the Carrier to **this Board's** authority to review this **matter** -- raised in light of the Organization's judgment not to advance it, we can dispose of the matter **summarily** by pointing out that while presenting a well-prepared submission, the Claimant has not demonstrated **any** violation of the **Rules** by the Carrier in **effectuating an Agreement ("TOPS")** developed between it and the Organization theretofore. The use of term "historically" and "traditionally" by the Claimant imply **past** practices which **stood** undeveloped on the record. In any case, the burden **is upon** the initiator to **demonstrate noncompliance** with applicable **Rules** -- a burden not carried by the Claimant's **arguments**. Under the **circumstances**, **this Board finds no basis to affirm the Claim and relief** sought herein.

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;

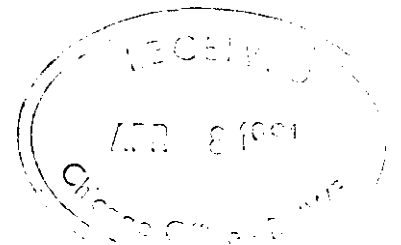
That the Carrier **and** the **Employees** involved in this dispute are respectively Carrier and **Employees** within the meaning of the Railway **Labor Act**, as approved June 21, 1934;

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. Paulsen*  
Executive Secretary

Dated at Chicago, Illinois, this 16th day of March 1981.