

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25101
Docket Number CL-25196

Edward L. Suntrup, Referee

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

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brotherhood (GL-9783)
that:

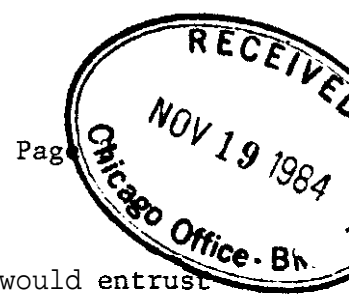
1. The Company violated the terms and provisions of special Agreement dated February 2.6, 1982 when it failed and/or refused to increase rates of pay for certain named employees listed on **Employees'** Exhibit No. 1 hereof, who had met all the criteria established under the agreement to receive the highest allowable monthly rate established for Rate & Division Clerks (Level 4) in the Revenue Accounting and Customer Accounting Research Department in the Union Pacific Headquarters Building, Omaha, Nebraska.

2. For this violation, the Company must be required to allow these Claimants the difference between the monthly rate of **\$2,120.00**, the amount allowed and that of **\$2,143.57**, the monthly rate entitled to under the February 26, 1982 Special Agreement. This claim is to commence on March 1, 1982 and continue each and every month thereafter until the dispute is adjudicated.

OPINION OF BOARD: On February 16, 1982, the parties entered into an agreement which provided for the restructuring of the Carrier's Revenue Accounting and Customer Accounting Research Departments. This "Special Agreement" established a wage structure that included differential payments for employees possessing certain levels of experience and/or knowledge. Experience was defined as the length of time an **employee** held a particular position in the Department. For those rates of pay requiring both experience and knowledge, the Carrier agreed to establish a job-related knowledge test for use in determining the applicability of differential payments to employees who met the established experience requirements. Although the parties were in agreement as to how the differential rates applied to employees entering the Departments for the first time and employees who qualified for rates requiring only a certain level of experience, this instant dispute developed around those employees already in the Departments at the time the Special Agreement took effect, who, by virtue of their experience, could have received the highest level of pay, but who had not yet taken the knowledge test.

The Carrier argued that these employees were required to pass the knowledge test before the higher rates applied. The Organization contended the Special Agreement awarded affected employees the appropriate differential rate at the time the Special Agreement took effect without having to take a ~~test~~ and the testing prerequisite was to apply only to individuals who **attained** the experience requirement after the effective date of the Special Agreement.

Arguments to support both positions can be found in the specific language of the Special Agreement. However, the support for the Organization's position is more direct. In order to reach the conclusion argued by the Carrier, one must follow a torturous path through footnotes, unrelated sections and sub-sections,



charts and attachments. It is difficult to believe any individual would entrust the important matter of wages to such circuitous and precarious language.

The Carrier's argument that the Local Chairman's actions demonstrated support of the Carrier's understanding of the Special Agreement is not apposite. The basic Schedule of Work Rules Agreement specifically states that positions, and not **employees**, shall be rated and that rates for new positions will be established by agreement between the General Chairman and the Director of Labor Relations. While it is understood the Carrier has a right to rely on the advice of an elected Organizational representative, under appropriate circumstances, it should have been apparent to the Carrier that this was not an appropriate circumstance. The Carrier cannot negotiate wage rates with a Local Chairman when it has already agreed that it would only negotiate such rates with the General Chairman. In this case, the General Chairman and the Director of Labor Relations establish a rate of pay and the local Chairman and a Carrier Supervisor cannot adjust that rate through a vest-pocket understanding of their own.

The Carrier's point that, given the information provided by the Organization, the Claimants cannot be readily identified, is well-taken, but not convincing. It is obvious that the Organization used the "shotgun" approach in identifying Claimants rather than do their homework. A simple review of the records, however, would reveal the identities of the proper Claimants.

Therefore, the issue addressed by this claim will be sustained and the matter will be remanded to the parties to review the records on the property to determine the proper Claimants to benefit from this decision.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole **record** and all the evidence, finds and holds:

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

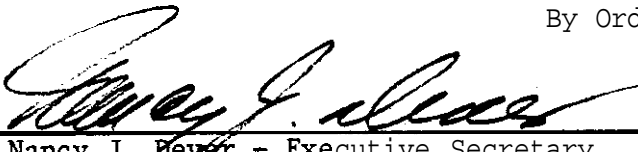
That the Agreement was violated.

A W A R D

Claim sustained in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Nancy J. Deyer - Executive Secretary

Dated at Chicago, Illinois, this 23rd day of October, 1984.