

NATIONAL RAILROAD **ADJUSTMENT** BOARD

THIRD DIVISION

Award Number 25573

Docket Number CL-24669

Josef P. Sirefman, Referee

(Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station **Employees**

PARTIES TO DISPUTE: {

(The Chesapeake and Ohio Railway Company

STATEMENT OF CLAIM: Claim of the **System** Committee of the Brotherhood (GL-9609)
that:

(a) The Carrier violated provisions of the Clerks' General Agreement and supplements thereto, **when** on May 27, 1979 its Officers refused to honor R. W. Chapman's letter requesting rearrangement to **Weighmaster/Bill** position C-444, and instead, forced him to rearrange to Operator position T-11 at R.U. Cabin, Russell, Kentucky.

(b) That R. W. Chapman be compensated for the difference in rate of the Operator position that he worked and the rate of **Weighmaster/Bill** position C-444, that he should have been allowed to **work**; also one pro rata hour at the rate of C-444; and in addition, that he be compensated for eight (8) hours at pro rata rate of Messenger C-482, for being forced to rearrange to a position in a different Office force.

(Carrier File CG-15053)

OPINION OF BOARD: Claimant R. w. Chapman was rearranged on May 27, 1979 contrary to Rule 12 of the Agreement. Rearrangement penalties are found in Rule 24. The Carrier paid Claimant the penalty under Rule 24(c). However, the Organization contends that Claimant was also entitled to the penalty set forth in Rule 24(d). In the Board's opinion this contention is not persuasive. In Third Division Award 15985, which dealt with claims "for both a rest day and a holiday where they occur on the same day", we held that "This Board is committed to follow a growing number of precedents which have consistently held that the Carrier has an obligation to make two separate payments for such service where there are two separate rules and no qualifying exceptions." The contract, in that Award, contained a separate substantive rule for Holidays (Article 4) and a separate substantive rule for Service **On** Rest Days (Article 6-A). In the instant claim there has been a violation of but a single substantive rule, namely, Article 12 dealing with rearrangements. Under these circumstances the Organization seeks, in effect, a "double penalty", a concept rejected by this Board (Third Division Awards 7370 and 12654).

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 has not been violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy F. Lever - Executive Secretary

Dated at Chicago, Illinois, this 26th day of July 1985.

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