

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25598

Docket Number CL-25806

James Robert Cox, Referee

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

PARTIES TO DISPUTE: (

(The Texas Mexican Railway Company

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brotherhood (GL-9927)
that:

1. Carrier violated the Clerks' Rules Agreement which became effective June 1, 1982, and in particular Rule 42, when it required Station Accountant **Arnoldo** R. Hinojosa to perform the work assigned to the Cashier and failed and refused to compensate Clerk Hinojosa accordingly.

2. Carrier shall **now** be required to compensate Clerk **Arnoldo** R. Hinojosa for the difference in the rate of pay between that of Station Accountant and Cashier each day **December** 13, 14, 15 and 16, 1982.

OPINION OF BOARD: Rule 42 of the Agreement states that **employees** temporarily assigned to a higher rated position or work will receive higher rates for the full day while occupying such position or performing such work.

In the absence of Cashier Gutierrez during four days in **December** 1982, Claimant Hinojosa performed certain duties the Cashier regularly undertook while Gutierrez trained on his Station Accountant position. According to the Organization, work performed by the Claimant on the four days included receiving customer paperwork on **cars** going to Mexico, receiving payments, filing, and making remittances to the Treasurer. The Carrier acknowledges that Claimant had been **instructed** to take over the **Cashier's** job, but states that the duties of the two classifications overlap except for the Cashier's supervisory functions. The Carrier argues that Station **Accountants** are, in effect, assistants to the Cashier. The overlap of these two classifications appears to be significant.

The evidence clearly establishes **that** the Chief Clerk told Claimant to work the Cashier position. The Carrier contends that the Clerk did not **temporarily** assign Claimant to the position, but merely assigned him duties which had regularly been performed by both Cashiers and Station Accountants in the course of **their** work. The evidence also **showed** that **employees** other **than** Claimant and the regularly assigned Cashier normally performed the duties carried on by Claimant on the days in question.

While the evidence does not establish a need for a replacement for the Cashier, Claimant was given the Cashier Assignment. Once having been assigned to that position, he was entitled to be paid in accordance with Rule 42. **Employees** are paid at the rate of their assigned classifications even when performing duties which are not the primary duties of that classification or which may also be performed by lower rated **employees**.

Claimant to be paid the differential between the rate of **the** Cashier's **position** and the rate actually received for **the** four days in issue.

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

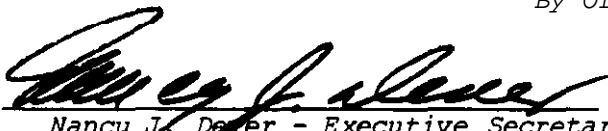
That the Agreement **was** violated.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **Third** Division

ATTEST:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 22nd day of August 1985.

