NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Form 1

Award No. 30551
Docket No. CL-30922
94-3-92-3-810

The Third Division consisted of the regular members and in addition Referee Joseph A. Sickles when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications
(International Union
(
(Chicago, Central & Pacific
(Railroad Company

STATEMENT OF CLAIM:

"Claim of the System Committee of the Union (GL-10878) that:

File No. 281-628-NAB-19

(1) Carrier violated the Clerks Agreement on January 25, 1992, when it failed to properly compensate an employe for service rendered.

(2) Carrier shall now compensate Clerk K.J. Dahm, Dubuque, Iowa, the difference between the pro rata rate that he was paid, and the pro rata rate he should have been paid for service rendered on the claimed date, a difference of $21.12."

FINDINGS:

The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

An initial claim was filed on February 15, 1992, for the difference between the pro rata rate of a Class III Yard Clerk rate of pay and the pro rata rate of the Transportation Assistant (TA) Position, a difference of $ 2.64 per hour. The claim requested a total of $21.12 for work performed by the Claimant on January 25, 1992.

The Claimant is an unassigned extra employee at Dubuque, Iowa, who was called for work on January 25, 1992.

The Organization contends that the only assigned position at Dubuque at the time was the Transportation Assistant (TA) position. The Organization contends that the Claimant was called because the TA was on leave on January 25. The Claimant was required to perform all of the duties normally performed by the Transportation Assistant. Thus, the Organization argues, the Carrier violated Rules 4 and 21 when it compensated the Claimant at a lower rate than that of a Transportation Assistant.

The Carrier has not denied the assertion that the regularly assigned Transportation Assistant was on leave on the day in question. The Carrier does argue, however, that on the day in question the Claimant performed only the duties of an extra clerical position (Pay Class III) and was not entitled to the pay of the TA position. In this regard, the Carrier notes that a TA position is classified as a Pay Class V position, which covers those jobs which are performed "in an environment on, in, or about railway equipment." Moreover, the TA position is exempt from Rules 6, 7, 8, 9, 11, 16, 18, and 25, unlike the Pay Class III extra position.

This Board has held that, absent a contractual exception, an employe who is used in relief work is entitled to receive compensation of the position to which assigned. Despite the Carrier's argument to the contrary, neither Rule 4 nor Rule 21 is vague. On January 25, 1992, the Claimant was called to perform the service of the TA in that employee's absence and the Rules require that the rate of pay shall be the rate of the position on which the service is performed (Rule 21 (c)).

A W A R D

Claim sustained.

O R D E R

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois this 9th day of November, 1994