

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 31611
Docket No. CL-31094
96-3-93-3-119**

The Third Division consisted of the regular members and in addition Referee Dana E. Eischen when award was rendered.

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

**STATEMENT OF CLAIM: "Claim of the System Committee of the
Organization (GL-10929) that:**

- 1) Carrier violated the Clerks Agreement beginning March 30, 1992, when it failed to properly apply the correct rate of pay to a newly created position.**
- 2) Carrier shall now compensate the occupant of the OIS Operator Position at Waterloo, Iowa, the difference between the Class II position and that of the Class III position, a difference of \$7.68 per day, beginning March 30, 1992, and continuing each work day thereafter."**

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.

On March 23, 1992 Carrier posted a bulletin advertising a clerical position in its centralized billing department at Waterloo, Iowa. The position was that of an OIS (Operations Information System) Operator, Class II, with a pay rate of \$96.64 per day. The duties were described as "Centralized OIS data entry and other duties as assigned."

The Organization entered a protest concerning the bulletin, stating that the new position should be rated as a Class III position rather than Class II. The Organization premised its position on the language found in Rule 4(d):

"The wages for new positions shall be in conformity with the wages for positions of similar kind or class."

The Organization enclosed copies of previous bulletins "showing" that the OIS work had previously been Class III.

Carrier declined the Organization's protest, relying upon Appendix 2 of the Agreement which states:

"Class II Semi-Skilled Labor-A- Includes work requiring skills possessed by a secondary school graduate.

Class III. Semi-Skilled Labor-B- Includes work requiring manipulative and cognitive skills possessed by a secondary school graduate and generally exercised in an environment on or about the track structure."

Carrier stated that the class descriptions made it "apparent" that Class III positions require physical and mental abilities "beyond" those of a Class II Clerk. Finally, Carrier noted that the new position did not involve any duties "on or about the track structure."

The Organization responded to Carrier's denial filing a continuous claim for the difference between a Class II rate of pay and a Class III rate of pay until the position "is properly reclassified as a Class III."

Further communication between the Parties did not bring about resolution to the dispute which is now before this Board for adjudication.

The Organization premised its claim on Rule 4(d) maintaining that the Rule requires that OIS clerical positions must be paid at the higher Class III rate of pay.

For its part, Carrier asserted that Class III Clerks are classified as such "not because of their OIS duties, but rather because of other duties which those clerks are required to perform." We found Carrier's argument persuasive in that regard. Additionally, Appendix 2 clearly delineates the difference between Class II and Class III employees, thereby nullifying the Organization's reliance upon the language found in Rule 4 of the Agreement. The mere fact that there are Class III rated Clerks that perform OIS duties is not dispositive of this dispute. Confining ourselves, as we must, to evidence raised and arguments joined on the property, we find that the plain language of the Class III description defeats this claim. Therefore, the claim must be denied.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 29th day of August 1996.