

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 32524
Docket No. CL-32381
98-3-95-3-235

The Third Division consisted of the regular members and in addition Referee Elizabeth C. Wesman when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International Union
(Delaware and Hudson Railway Company, Inc.)

STATEMENT OF CLAIM:

"Claim of the System Committee of the Organization (GL-11143) (DH94-002) that:

- (a) The Carrier violated the Clerks' Rules Agreement effective September 26, 1990, particularly Rule 2, 12, 13, Appendix I and other rules, as well as Letter 2, dated September 24, 1990, when they maintain position of Secretary as other than a fully covered position, assigning employee J. Malenfant to same, without first obtaining an agreement with General Chairman Santoro, as required and intended within the provisions of Rule 2 and Letter 2 of the Agreement.
- (b) The position of Secretary to the General Manager was established in accordance with Letter No. 2 and was subsequently the position held by E. Lane who last covered the duties of said position. Clerk E. Lane's position was a fully covered bump and bid assignment and was abolished concurrent with her retirement, at which time the Carrier established an exempt position, effective January 3, 1994, in violation of Letter No. 2 of the current rules agreement.
- (c) In addition to the Carrier abolishing Clerk Lane's position, they also abolished Clerk Malenfant's position effective January 3, 1994.
- (d) Claimant Wescott should now be allowed the identical compensation being paid to employee Malenfant, commencing January 3, 1994

and continuing for each and every workday thereafter on account of this violation.

- (e) That in order to terminate this claim the Carrier must advertise said position on a fully covered assignment and honor the principles of seniority in awarding same, or must secure the required agreement from the General Chairman to otherwise maintain same with an exempt type of status."

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 were given due notice of hearing thereon.

A careful review of the record in this case indicates that the position at issue was not originally covered by the Agreement. Accordingly, the Carrier is under no obligation to confer with the General Chairman prior to establishing or abolishing such a position. The provisions of Letter No. 2 of September 24, 1990 are applicable in this case.

AWARD

Claim denied.

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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 25th day of March 1998.