Award No. 7354
Docket No. CLX-7278

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

LeRoy A. Rader, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS, FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES

RAILWAY EXPRESS AGENCY, INC.

STATEMENT OF CLAIM: Claim of the District Committee of the Brotherhood that (a) The Agreement governing hours of service and working conditions between Railway Express Agency, Inc. and the Brotherhood of Railway & Steamship Clerks, Freight Handlers, Express & Station Employes, effective September 1, 1949, was violated at the Springfield, Missouri Agency, March 14, 1953 when higher-rated duties were assigned to Eula M. Murray, regular occupant of position titled "Stenographer-Clerk", Position 1, Group 7, without the position being re-classified and properly rated; and

(b) Eula M. Murray and others adversely affected shall now be compensated for the difference between the rate paid ($277.66), and the rate which should have been paid ($290.00), retroactive to and including March 14, 1953.

EMPLOYES' STATEMENT OF FACTS: Eula M. Murray, with seniority dating from December 1, 1954, is the regular occupant of Position 1, Group 7, titled "Stenographer-Clerk" at the Springfield, Missouri Agency, hours of assignment 8:00 A. M. to 5:00 P. M., meal period 12:00 Noon to 1:00 P. M., work week assignment Monday through Friday, days of rest Saturday and Sunday, salary $277.66 basic per month. Reference to Bulletin No. 7 dated April 1, 1946 reveals that at that time, the following duties and responsibilities attached to Position 1, Group 7, titled "Stenographer-Clerk", salary $157.35 basic per month.

> "Stenographic, shorthand and office clerical work, also handling PBX telephone switchboard." (Exhibit "A")

Reference is also made to Bulletin No. 7 dated January 26, 1950, advertising Position 3, Group 23, titled "Foreman-Clerk", salary $313.36 basic per month, to which the following duties and responsibilities attached:

> "Working trains, handling express on platform and in depot, general clerical duties, including the handling of daily time sheets, Form 1301, preparation of payrolls and motor vehicle report, Form 3041; maintaining necessary records in connection with the handling of Air Express shipments and preparing requisitions." (Exhibit "B")

done thereat by saying: 'It seems that a statement clerk of some sort should be more of a classification', and further; 'or a general clerk, because it seems to me, if someone were to ask me just what I did, I would say the duties were general clerical.' The Assistant Cashier 'keeps his own balance sheet and work sheet', this also from the statement of the present occupant shows that certainly some of the responsible duties developing upon the Assistant Cashier are not performed by her.

"Just how the full duties of an Assistant Cashier might be described, we are unable to say from the record. It is clear that some stenographic duties are required of the Stenographer-Clerk; it is doubtful that such work is exacted of an Assistant Cashier.

"We are, therefore, unable to say that this position should be reclassified and re-rated to that of Assistant Cashier."

The claim covered by Referee Messmore's Decision E-1386 again came to the Board before Referee Lewis, after review of which Referee Lewis rendered Decision E-1518 reading:

"This is the identical claim, with all material parts stated in identical language, that was subject of Decision E-1386 of this Board.

"The present record, as well as the record in Docket 4254, upon which Decision E-1386 is based, have been fully examined with extreme care, in an attempt to discover some differences in the claims presented in the two cases. We are unable to find any difference. The nearest approach is a complaint by Petitioner of the verbiage employed by Referee in E-1386.

"We can, therefore, only conclude that this claim was adjudicated in E-1386.

"By Article 7, of the Agreement between the parties establishing this Board, it is provided that decisions of the Board, including those rendered with participation of a neutral Referee, shall be final and binding upon both parties. That provision of Article 7 applies here. The decision in E-1386 is final, and it is the duty of both parties to abide by such decision.

"Claim Denied."

The claim in the instant case amounts to a request for fixing the rate of pay for a long established position of Clerk-Stenographer which is not properly a function of the Board, as evidenced by the many awards cited above, and should be denied. It follows the pattern of the several cases cited by Carrier, Decisions E-1250, E-1327, E-1386, E-1516, E-1517 and E-1518, all of which were denied by the several Referees sitting with Express Board of Adjustment No. 1.

All evidence and data set forth have been considered by the parties in correspondence and in conference.

(Exhibits not reproduced.)

OPINION OF BOARD: Petitioner contends that Carrier's action on March 14, 1953 in adding duties to Claimant's position had the effect of assigning her to a higher rated position and therefore she is entitled to the higher rate claimed, citing rules of the Agreement in support of this contention.

Carrier states its position that this is a request to increase a rate of pay and that no new position is involved. Also that no greater training and skill

is required which would justify an upper revision of the basic wage rate, citing rules of the Agreement to the effect that the same require the parties to negotiate any such change in the basic wage scale.

Both parties seek to support their respective positions with awards of this Division.

An investigation was held and the evidence taken is set out in the record. A careful analysis of this evidence leads to the conclusion that some of the duties of the higher rated position were assumed by Claimant as required by additional work as the result of the readjustment of the work in the Springfield, Missouri Agency of Carrier. This being true she is entitled to the higher rate in our opinion. Seeking to draw a complete line of demarcation between duties previously performed and those now performed is difficult in some respects and this resulted in the present controversy. However, we believe that it is clearly shown by the evidence presented that some additional higher rated duties were assumed and under rules of the Agreement the higher rate is the proper solution.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employes involved in this dispute are respectively carrier and employes 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 Carrier violated the Agreement.

AWARD

Claims (a) and (b) sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 7th day of June, 1956.