

Award No. 8748
Docket No. CL-8170

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Lloyd H. Bailer, Referee

PARTIES TO DISPUTE:

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

SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that

(a) The Carrier violated the Agreement when, on January 17, 1955, at Appliance Park (Louisville), Kentucky, it established a clerical position titled "Rate and Bill Clerk" arbitrarily fixing the daily rate of pay at \$15.45, and

(b) The Carrier shall now be required to fix the daily rate of pay at not less than \$16.23 per day, and

(c) Claimant, Mr. W. J. Vonnahme, his substitutes or successors, shall be compensated the difference between \$15.45 per day and \$16.23 per day for each day the position has been worked until correction is made as requested in Part (b) of claim.

EMPLOYEES' STATEMENT OF FACTS: The General Electric Company has a plant located on the Carrier's facilities within the switching limits of Louisville, Kentucky. Rating and billing this patron's outbound shipments was formerly a duty performed by the "carload" Rate Clerk at the Louisville Agency whose rate of pay is \$16.23 per day, or by the Rate Clerks employed by the Kentucky and Indiana Terminal Railroad Company, whose rate of pay is \$16.50 per day. Another Rate Clerk at Louisville rates outbound less-than-carload shipments, his rate of pay being \$15.45 per day. At the Carrier's East St. Louis Agency, there are two "Rate and Bill" Clerk positions required to rate and bill carload shipments. These positions are rated at \$16.35 per day.

With the increase in traffic originating at the General Electric Plant at Appliance Park, it was determined that the patron would be better served if the Carrier stationed a Clerk at the Plant to rate and bill the patron's carload traffic and perform such other miscellaneous work as time might permit. Accordingly, Bulletin No. 4 was issued on January 17, 1955. (Employees' Exhibit "P".) The position was awarded to Claimant, Mr. W. J. Vonnahme. (Employees' Exhibit "Q".)

Carrier has shown that the duties and requirements of the \$16.23 position at Louisville freight agency are materially different from those of the position at Appliance Park, and that for many years, even prior to 1917, the No. 1 rate clerk position at Louisville has enjoyed a higher rate of pay. The Brotherhood's demand that the rate be the same as the No. 1 position at Louisville is inconsistent with the terms of Rule 46 (b) and the established practice.

All pertinent facts and data used by the Carrier in this case have been made known to the employe representatives.

(Exhibits not reproduced.)

OPINION OF BOARD: In February 1953 the electrical appliance plant of General Electric at Appliance Park (Louisville) was placed in operation. From that time until January 1955 all carload shipments from this plant were rated and routed by the No. 1 Rate Clerk at Carrier's Louisville freight agency. The billing on these shipments was prepared by Bill Clerks of the Kentucky and Indiana Terminal Railroad Company at Louisville. Clerical employes of the latter firm are covered by a separate agreement between K. & I. T. and the Clerks.

As of January 1955 there were two Rate Clerk positions at Carrier's Louisville freight agency, with rates of \$16.23 and \$15.45 per day; two Expense Bill Clerk positions, both paying \$14.73; and two Bill Clerk positions, each of which carried a rate of \$14.49. Due to the increase in freight business at Appliance Park, on January 17, 1955 the Carrier bulletined a new position of Rate and Bill Clerk to be located at this point, with the rate fixed at \$15.45 per day. Claimant Vonnahme, who had occupied the No. 2 Rate Clerk position at Louisville, paying \$15.45 per day, bid for and was awarded the new position. Thereafter claim was filed that the rate set by the Carrier was not proper under Rule 46 (b), and that the rate required by this rule was not less than \$16.23 per day.

The duties of the new position consist of rating and billing carload freight, and miscellaneous clerical work arising out of the freight business at Appliance Park. The Carrier states the rating work accounts for 25 to 50 percent of the work time. The Claimant states the rating function consumes between 40 and 50 percent of his time. Thus it is agreed, at least, that the rating work represents not more than one-half of the work time of the position.

The Organization contends the new position is entitled at least to the rate of the higher paid of the two previously established Rate Clerk positions at the Louisville freight agency, namely \$16.23 per day, as of January 1955. The Carrier responds that the proper comparison is with the Rate Clerk position paying \$15.45, which the Claimant had previously held. The Organization notes that the duties of both the new position and the No. 1 Rate Clerk job involve the rating of carload freight, whereas the rating of less than carload freight is performed by the No. 2 Rate Clerk. The Carrier replies that the rating of carload versus less than carload freight has nothing to do with the wage rate set for a position. It points to the established fact that the No. 1 Rate Clerk performs rating exclusively whereas the incumbent of the new position performs lower-rated work at least half of his time. Management contends the responsibility placed on the No. 1 Rate Clerk is substantially greater than that of the incumbent of the new position. It notes that the rate fixed for this position is approximately equal to the average of the rates for the highest rated Rate Clerk and Bill Clerk positions at the Louisville freight agency (\$16.23 and \$14.73).

The Organization seeks to rely in part upon the rate of \$16.50 per day paid a Rate Clerk position by the K. & I. T. at Louisville. This comparison is not valid, however, since that position is covered by a different agreement. The Organization refers to two Rate and Bill Clerk positions at the Carrier's East St. Louis Agency which are required to rate and bill carload shipments, and which pay \$16.35 per day. The Carrier responds the preponderating duties of the new position are not comparable with those of the cited East St. Louis positions. It states the occupants of the latter positions "are required to perform a variety of rate work in connection with all classes and commodities of freight, including work in connection with diversions, reconsignments, icing, etc." (R, 63) It is urged, moreover, that East St. Louis is not a "similar location." Management states the only comparable or similarly located position on the railroad is that of Rate and Bill Clerk at the Chevrolet plant in Atlanta, which position carried a rate of \$15.47 per day in January 1955. It notes that there are other Rate Clerk positions at the Atlanta Agency which in January 1955 paid \$16.18, \$15.94, \$15.86, \$15.47 and \$15.24 per day. The Atlanta Agency is in a different seniority district than the Louisville freight agency.

Having carefully reviewed all of the evidence contained in the record, we are of the opinion that Rule 46 (b) does not require that the Rate and Bill Clerk position at Appliance Park be given the same rate as the No. 1 Rate Clerk position at Louisville. It is true that both of these positions perform the rating of carload freight. The fact that the new position also performs billing and miscellaneous clerical work does not, in itself, require that the new position be given a lower rate than that of the No. 1 Rate Clerk. In comparing positions on the basis of job content, it is appropriate to look to the highest level of skill involved. We find, however, that there is a greater diversity in the rating work performed by the No. 1 Rate Clerk position, and thus that a higher degree of skill and responsibility are involved, as compared with the Rate and Bill Clerk position at Appliance Park. The cited positions at East St. Louis do not appear comparable to the position in question. The Rate and Bill Clerk position in Atlanta, to which the Carrier has referred, affords no support to this claim.

It may well be that a new rate higher than that now paid the subject position, but less than that paid the No. 1 Rate Clerk, is warranted by an evaluation of the new position. We do not possess the authority to establish new rates, however. This action may only be taken through negotiation between the parties. A denial award is warranted.

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 Employee involved in this dispute are respectively carrier and employee 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 Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 4th day of March, 1959.