

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Donald F. McMahon, 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, in the office of Superintendent Car Service, Atlanta, Georgia, it required Clerks B. H. Frasier and R. E. White to trade positions and,

(b) As a penalty for the violation, the Carrier shall now be required to additionally compensate Claimants Frasier and White at the pro rata rate of their regularly assigned positions until such time as the violation shall have been corrected.

EMPLOYES' STATEMENT OF FACTS: Effective March 16, 1946, Claimant, Mr. R. E. White, exercised a rolling (displacement) right to the position of Private Line Mileage Clerk. The position had previously been occupied by Clerk, Mr. J. D. Higginbotham. On the effective date of this displacement, Claimant White occupied the desk formerly occupied by Mr. Higginbotham and performed the duties formerly assigned to and performed by Mr. Higginbotham. The duties of this position consisted of keeping, in a bound book, a record of movements over Carrier's rails, of cars belonging to the Fruit Growers Express Company, Western Fruit Growers Express, and Burlington Refrigerator Express, and calculating mileage payments due the aforesaid Companies for movement of their cars over Carrier's rails. The rate of pay of the aforesaid position is \$14.88 per day.

In February 1954, after occupying the position of Private Line Mileage Clerk since March 16, 1946, receiving the rate of pay and performing the duties attached to that position, Claimant White bid on and was assigned to position paying \$15.47 per day. Claimant White occupied this position (Miscellaneous Refrigeration), received the rate of pay and performed the duties attaching thereto, until six months later, when he was "rolled" or displaced, and exercised displacement rights to his former position of "Private Line Mileage Clerk" FGEX, WFEX, BREX, salary \$14.88 per day. Upon exercising

specific ownerships of private line cars be shown on each of the bulletins covering the eight positions in the Private Line Mileage Section—i.e., that each position be rated as a separate and distinct assignment according to specific car owners.

The Carrier has shown that the work is identical and must be performed by distributing and regulating or equalizing the volume from month to month according to changes in traffic conditions and seasonal movements, and that the long established method of performance does not violate any rule or provision of the effective agreement. Clerical employees in the office have no difficulty in bidding on or exercising their seniority rights to positions in the Private Line Mileage Section. Each bulletin shows the title of position, daily rate of pay, and the preponderating duties required, strictly in accordance with Rule 16. In view of these circumstances, the claim is contrary to and inconsistent with Rule 3 of the agreement which provides that unless rules are specifically changed the effective agreement does not alter practices or working conditions established by or under former agreements.

For the reasons set forth herein, the claim is not supported by the rules of the effective agreement and should be denied in its entirety. Carrier respectfully requests that the Board so decide.

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: Claims are progressed on behalf of Clerks B. H. Frasier and R. E. White, who it is alleged by the Organization were required to trade positions, in violation of Rule 11 of the Agreement between the parties—Trading Positions, and other provisions of the agreement, for which the Organization is requesting pay for said employes at the pro rata rate of their regular assigned positions, and until such time as the alleged violations are corrected.

The record shows that at Atlanta, Georgia, eight (8) Private Line Mileage clerks positions are maintained, with varying rates of pay for the positions, as set out in the Bulletins covering each position. However, the preponderating assigned duties of all eight (8) positions are identical, and as shown by the record, consist of the following language,

“Recording movements, extension of mileage of private line cars, compiling of mileage by States and statistical work in connection therewith.”

There is evidence in the record that the claimant employes are receiving the same rates of pay as they did before the Carrier caused the alleged trading of positions. Consequently Carrier has in no way violated the provisions of Rule 46—Preservation of Rates.

The record before the Board does not convince us that Carrier, under provisions of the effective agreement, has violated any of the provisions as alleged. Carrier has in no way changed the work or duties required of the claimants, but in order to equalize the work among the eight clerks all operating in the same group and performing similar work, did require a shifting of the positions, but at the same time the employes retained all the benefits of their pay classification, without monetary loss to the employes involved.

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 Employees involved in this dispute are respectively carrier and employees 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 under the provisions of the agreement before us, there is no basis in the rules to support a sustaining award and the claim should be denied.

AWARD

Claims denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 8th day of April, 1959.