

Award No. 9390

Docket No. CL-8797

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Martin I. Rose, Referee

PARTIES TO DISPUTE:

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

LEHIGH VALLEY RAILROAD COMPANY

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

1. The carrier violated the rules of the Clerks' Agreement when Agent Cousens, Niagara Falls, N. Y., without conference or agreement with the Clerks' Committee on or about May 6, 1954, requested five (5) clerks to enter into an agreement with him to absorb the work of Clerk Harper's position starting May 10, 1954 instead of using a vacation relief clerk and stated unless this was done, one position in the office would be discontinued.

2. That John A. Rennie, extra clerk, Niagara Falls, N. Y., be paid five (5) days' pay, May 10 to 14, 1954 inclusive.

EMPLOYES' STATEMENT OF FACTS: When the National Vacation Agreement became effective Dec. 17, 1941, the Clerks' Committee met with the Superintendents and various department heads on the Railroad and negotiated a vacation relief arrangement at all the various points on the railroad. Niagara Falls, N. Y. continued to have vacation relief worker in that office from 1942 to 1953.

When Local Chairman McLaughlin protested Agent Cousens action a conference was arranged and an agreement reached about distributing the work on May 18, 1954. In the meantime Extra Clerk John A. Rennie was deprived of five (5) days work due to Agent Cousens' unilateral action.

Copies of correspondence and advertisements covering are re-produced.

"Mr. C. L. Wagner
Chief of Personnel
Lehigh Valley Railroad Co.
143 Liberty Street
New York 6, N. Y.

1879 Seneca St.
Buffalo, N. Y.
July 26, 1954
C-54-23

The facts presented in this submission were made a matter of discussion with the Committee in conference on the property.

OPINION OF BOARD: The record does not contain sufficient evidence to support this claim and discloses factual conflicts which cannot be resolved here. See Awards 9230, 9046, 8431, 6367.

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 Agreement was not violated.

AWARD

Claim denied.

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

**ATTEST: S. H. Schulty
Executive Secretary**

Dated at Chicago, Illinois this 2nd day of May, 1960.