

Award No. 9784

Docket No. CLX-9203

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Joseph E. Fleming, 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 and Steamship Clerks, Freight Handlers, Express and Station Employees, effective September 1, 1949, was violated at the Richmond Virginia, Agency when higher rated duties and responsibilities were assigned to the occupant of Position No. 18, titled Stenographer, without making an upward adjustment in the rate for the position concurrent with the assignment thereto of the higher rated work; and

(b) The position shall now be rated at \$314.33 basic per month and Thelma Minson compensated for the difference between the rate paid her of \$296.20 and the rate of \$314.33 or \$18.13 per month retroactive to and including October 28, 1953 .

EMPLOYEES' STATEMENT OF FACTS: Thelma Minson, with a seniority date of October 28, 1953, is the regular occupant of position titled "Stenographer", Position No. 18; hours of assignment 8:30 A.M to 5:00 P.M.; work week assignment Monday through Friday with Saturday and Sunday as days of rest, rate of pay \$282.66 basic per month. The duties of the position, as set out in Bulletin No. 4, dated October 15, 1953 are:

"Shorthand, typing and dictaphone"

There is also a position in the Superintendent's Office at Richmond, Virginia titled "Clerk-Stenographer", Position No. 20; hours of assignment 8:30 A.M. to 5:00 P.M.; work week assignment Monday through Friday with Saturday and Sunday as days of rest; rate of pay \$314.33 basic per month. The duties of the position as shown on Bulletin No. 8 dated July 22, 1955 are:

"Various—Must be qualified to handle bills, invoices, advalorem and privilege license taxes, get up statistical information and do stenographic work, including shorthand, dictaphone, mimeographic, addressographing and typing."

Concurrent with the awarding of the position titled "Stenographer" (Position No. 18) Carrier in addition to requiring the successful applicant, Claimant

On the other hand, in addition to her routine stenographic work of dictation, practically all taken from dictaphone, and assisting with mail, cutting stencils, operating mimeograph and addressograph, typing in connection with payrolls from work sheets prepared by Payroll Clerk, the Stenographer made recap of Forms 841A, consisting of adding totals of the various entries and carrying totals to the recap. This work, including keeping the card records up to date consumed about two hours per month. While these latter duties, and some other routine duties performed on both positions were somewhat similar in nature, they were all routine duties performed by Stenographers. In contrast, the Clerk-Stenographer devoted 65% of her time to the handling of bills, invoices, taxes, preparation of monthly reports, statistics, etc., work requiring greater skill and experience, and for which the higher rate was paid.

Employees have failed to support the claim in the instant case that Rule 80 has been violated. The claim is in fact one for increase in basic rate of pay of a long established position progressed under the guise of a rules violation. The dispute is one coming under Sec. 6 of the Railway Labor Act, as amended, and not one growing out of the interpretation of Agreement rules properly referable to the National Railroad Adjustment Board. An Award changing the rate of pay of the position in question would amount to rate making rather than rules interpretation. As held in many Awards of this Division (1586, 1684, 2137, 2202, 2682, 2734, 2983, 3002, 3194, 3224, 3374, 3484, 3487, 4123 and others) the function of the Board is not one of fixing rates of pay.

The claim in the instant case is wholly without merit and should be denied.

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

OPINION OF BOARD: On October 15 1953 a vacancy in Position No. 18 was advertised, with duties described as "shorthand, typing and dictaphone", which position was awarded to claimant on October 26, 1953.

Claimant contends that she does the work of a higher-rated position and that she should be compensated accordingly. It is self evident from the claim itself that claimant was doing only the work as described in the duties as advertised and the claim is simply a request for an increase in pay.

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 the Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 30th day of January, 1961.