

Award No. 10991

Docket No. CL-10674

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Levi M. Hall, Referee

PARTIES TO DISPUTE:

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

THE PENNSYLVANIA RAILROAD COMPANY

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

(a) The Carrier violated the Rules Agreement, effective May 1, 1942, except as amended, when it assigned W. B. Hastings, Extra Clerk, Group 1, to fill a Group 2 position of Crew Caller, on June 13 and 20, 1956, at Oil City, Pennsylvania, Northern Region.

(b) The Claimant, Crew Caller G. W. Rehberg, should be allowed eight hours' pay a day, at the punitive rate, for June 13 and 20, 1956.

EMPLOYEES' STATEMENT OF FACTS: This dispute is between the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees as the representatives of the class or craft of employees in which the Claimant in this case held a position and the Pennsylvania Railroad Company—hereinafter referred to as the Brotherhood and the Carrier, respectively.

There is in effect a Rules Agreement, effective May 1, 1942, covering Clerical, Other Office, Station and Storehouse Employees between the Carrier and this Brotherhood which the Carrier has filed with the National Mediation Board in accordance with Section 5, Third (e), of the Railway Labor Act, and also with the National Railroad Adjustment Board. This Rules Agreement will be considered a part of this Statement of Facts. Various Rules thereof may be referred to herein from time to time without quoting in full.

On the dates shown in this claim, June 13 and 20, 1956, Claimant G. W. Rehberg was the regular incumbent of a Group 2 position of Relief Crew Caller at Oil City, Pennsylvania, Northern Region. He has a seniority date on the seniority roster of the Northern Region in Group 2. He relieved the regular Crew Callers on their rest days, five days a week, as follows:

OPINION OF BOARD: G. W. Rehberg, Claimant, was the regular incumbent of a Group 2 position of Relief Crew Caller at Oil City, Pennsylvania, under the Scope of the Agreement effective August 1, 1953 as amended, relieving Crew Callers on their rest days, working five days each week.

Carrier was unable to include the Wednesday rest day vacancy of the third trick Crew Caller, 11:00 P. M. to 7:00 A. M., in Rehberg's assignment due to the fact that five days' work was already included in his assignment.

Carrier with the approval of the Division Chairman had included the relief work of the rest day of the third trick Crew Caller in the regular assignment of Group 1 Relief Clerk W. J. Lewis whose other four work days were rest days of employees with Group 1 assignments. This regular relief assignment had been duly bulletined and Lewis had been the regular incumbent of this assignment for some time.

On June 11, 1956, there was only one Group 1 extra Clerk—Hastings. He had no Group 2 seniority. Lewis took a two weeks vacation. Hastings was not qualified to fill all of the assignments in Lewis' position, so this work was given to the regular employees on their rest days. However, he was able to perform the Crew Caller's work so he was given the Lewis assignment for third trick-crew caller on Wednesday.

It is the contention of the Petitioner that Hastings, an extra Group 1 Clerk had no right to cover this Group 2 assignment.

The Carrier contends to the contrary, that Lewis' position was a Group 1 assignment.

We find that inasmuch as the Division Chairman had agreed that the relief assignment of Relief Clerk Lewis could include the relief work of the rest day of the third trick Crew Caller, a Group 2 assignment, in the regular assignment of the Group 1 Relief Clerk and that this agreement by the Chairman has been acquiesced in for a number of years by the Petitioner, it should not now be heard to complain.

This being the situation, a further consideration of the issues is unnecessary and the claim will be denied. This Opinion has been arrived at under the facts and circumstances of this particular case.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

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 there has been no violation of 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 19th day of December 1962.