

Award No. 13274

Docket No. CL-11931

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Francis M. Reagan, Referee

PARTIES TO DISPUTE:

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

**CHICAGO, MILWAUKEE, ST. PAUL AND
PACIFIC RAILROAD COMPANY**

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

1. Carrier violated and continues to violate the Clerks' Rules Agreement at Minneapolis, Minnesota when it abolished Steno-Clerk Position No. 28, which was a regular 5-day position, and simultaneously created Steno Clerk-Relief Chief Caller Position, thereby combining four days of regular Position No. 28 and one day relief work.

2. Carrier shall compensate Employee Harold R. Hultine for eight (8) hours at the Chief Caller rate of \$18.5360 per day for each day he is deprived of employment as result of this violation since January 5, 1959.

3. Carrier shall also be required to compensate Employee Wallace W. Thompson at the straight time rate of Steno-Clerk position for each Monday and Tuesday that he is not permitted to work the regular 5-day position; and the difference between the straight time rate received on Saturday and Sunday and what he would have received at the penalty rate account being required to work the rest days of a regular 5-day position.

4. Carrier shall also compensate Employees C. A. Sorenson and C. Ostby for eight (8) hours at the time and one-half rate of the Chief Caller position for alternate Sundays until this violation is corrected.

5. Carrier shall be required to separate regular work from relief work; rebulletin Position No. 28 as a regular 5-day position to employees in District #56; and remove the stenographic requirement therefrom.

EMPLOYEES' STATEMENT OF FACTS: For many years the Carrier has maintained a clerical force in the Locomotive Department at Minneapolis, Minn. Included in that force immediately prior to November 1, 1958 were the following positions and employees:

such types of other work on other days as may be assigned under this agreement.

Assignments for regular relief positions may on different days include different starting times, duties and work locations for employees of the same class in the same seniority district, provided they take the starting time, duties and work locations of the employee or employees whom they are relieving." (Emphasis ours.)

The provisions of the aforementioned Rule 27(e) specifically provide for the establishment of relief positions to perform relief work on certain days and such types of other work on other days as may be assigned under the Clerks' Agreement, therefore, when, on or about December 19, 1958, the Carrier established a relief position to provide rest day relief on Chief Caller Position No. 62 from 3:00 P. M. to 11:00 P. M. on Sunday (formerly a tag-end rest day) and to perform such types of other work on other days, viz., steno-clerk work on Wednesday, Thursday, Friday and Saturday, said action on the part of the Carrier was entirely proper and in accordance with the provision of Rule 27(e).

Insofar as the abolishment of Steno-Clerk Position No. 28 is concerned, there is no schedule rule or agreement which precludes the abolishment of a position when a diminution in the volume of work no longer justifies its retention and the assignment of the remaining duties to another position, therefore, no violation occurred when, as a result of a diminution in the volume of work, the Carrier abolished Steno-Clerk Position No. 28 and assigned the remaining duties to the relief position described in the preceding paragraph.

It is significant that while claiming the Carrier violated the Clerks' Agreement, yet at no time during the handling of this case on the property did the employees cite the rule or rules which the Carrier is supposed to have violated even though the undersigned, in the first paragraph on Page 3 of his letter to General Chairman Gilligan under date of August 27, 1959 (Carrier's Exhibit "A"), specifically requested that Mr. Gilligan cite the rule or rules of the Clerks' Agreement which he (Mr. Gilligan) felt the Carrier had violated.

The Carrier wishes to direct attention to Third Division Award 6979 which is directly in point and supports the Carrier's position in its entirety.

There is no basis for this claim.

There has been no violation of the rules.

The Carrier respectfully requests that the instant claim be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: The parties facts and circumstances are not distinguishable from those in Award 13046 (Wolf). Award 13046 appears well reasoned, not patently wrong, and will be deemed controlling in this 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 re-

spectively Carrier and Employes 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 10th day of February, 1965.