Award No. 16450
Docket No. CL-16835

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Paul C. Dugan, Referee

PARTIES TO DISPUTE:

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

CENTRAL OF GEORGIA RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6172) that:

(1) The Carrier has violated and continues to violate the Clerks' Agreement of December 1, 1956, as amended, at the combined Columbus, Georgia Yard Office and Agency as hereinafter outlined, and that, therefore

(2) Yard Clerk W. R. Chalkley shall now be paid one 3-hour call for each Sunday and Monday beginning October 31st and November 1st, 1965, and continuing for each Sunday and Monday thereafter until this violation is corrected, and that

(3) Yard Clerk J. T. Attaway shall now be paid one 3-hour call for each Tuesday beginning November 2, 1965, and continuing for each Tuesday thereafter until this violation is corrected, and that

(4) Yard Clerk B. W. Lloyd shall now be paid one 3-hour call beginning Wednesday and Thursday, November 3rd and 4th, 1965, and continuing thereafter until this violation is corrected, and that

(5) Yard Clerk H. E. Harvey shall now be paid one 3-hour call beginning Friday and Saturday, November 5th and 6th, 1965, and continuing thereafter until this violation is corrected, and that

(6) The successor or successors in interest of the above names or referred to employes shall likewise be paid in the same manner from the effective dates that this violation exists and continuing thereafter until the violation is corrected, and that

(7) The records of the Carrier shall be checked jointly with the General Chairman to determine the extent of reparation due each and every employe as long as this violation continues.

Under the April 16, 1965 agreement all the claimants are "protected employes" and under Article IV of such agreement are not to be placed in a worse position with respect to compensation than the normal rate of compensation of positions to which assigned on October 1, 1964 plus any subsequent general wage increases. They are guaranteed the rate of compensation received on October 1, 1964 so long as they protect their rights and until such time as they retire, die or are discharged for cause. Having been guaranteed lifetime pay under the conditions outlined in the referred to agreement, they cannot expect more.

(Exhibits not reproduced.)

OPINION OF BOARD: The facts are that on September 7, 1965, the Yard Office forces were moved to different quarters a short distance away from the building in which they had been working. At about the same time Carrier changed the manner in which some of the work was being performed such as installing a Xerox long distance scanner to replace microfilming of waybills and other data. On September 15, 1965, Carrier issued a bulletin reading:

"All Concerned

Do not allow switch engines or Yard Clerks to make any more overtime. You have to plan work accordingly?

/s/ R. J. Reilly
R. J. Reilly TTM"

The Organization's basic claim is that in so "eliminating" the overtime someone had to do the work and they point to General Yardmaster B. J. Banks and Terminal Trainmaster R. J. Reilly and contend that they then commenced performing clerical work such as delivering waybills to Seaboard Airline Railroad; booking cleanout track near shops; furnishing computer center information on cars; booking four tracks in regard to empty and other equipment; writing up consists; making header cards; operating Xerox copying machine; preparing switch list, Form 62. Organization relies primarily on the Scope Rule and alleges that when the Terminal Trainmaster and the General Yardmaster perform clerical duties a violation of the Scope Rule is evident.

The Carrier's position in part is that (a) the claim is vague and indefinite; (b) the Clerks' Agreement was not violated; (c) Petitioners have failed to prove that duties performed by Messrs. Banks and Reilly were other than of a supervisory nature and necessary to familiarize clerks with new procedures; (d) and failed to produce evidence that any work belonging to Clerks was being performed by officers at Columbus Yard as alleged.

This Board has repeatedly held that Claimants, having presented the claim, have the burden of proving it. Here there has been a complete denial by the Carrier of the alleged facts presented by Claimants. It is evident from reading the record that Claimants' case is based primarily on assertions and, as such, is lacking in proof that work belonging to Clerks has been or is being performed by the Terminal Trainmaster and General Yardmaster. Mere allegations, without probative evidence in support thereof, does not constitute proof.

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 Employe involved in this dispute are respectively 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 26th day of June 1968.

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