

Award No. 16923
Docket No. CL-17509

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John J. McGovern, Referee

PARTIES TO DISPUTE:

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

ERIE-LACKAWANNA RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6383) that:

1. Carrier violated the rules of the Clerks' Agreement at Kent, Ohio, when it utilized the services of A. W. McCullough, an employee holding a regular Roster "B" assignment, to work vacancy on position of second trick Chief Caller-Clerk at Kent, Ohio, (a regular Roster "A" position) on June 23, 24, 25, 26, 27, 30, July 1 and 2, 1965.

2. Carrier shall now be required to compensate employee W. D. Langacher, eight (8) hours or one day at time and one-half for each of the above dates, (Claim 1686.)

EMPLOYEES' STATEMENT OF FACTS: Commencing June 23, 1965, T. A. Coy, first trick Chief Caller-Clerk at Kent, Ohio, a Roster "A" position, was absent for a period of two weeks account being on vacation. F. J. Archual, regularly assigned to the second trick Chief Caller-Clerk position at this location, marked up on the vacation vacancy of first trick Chief Caller-Clerk, which created a temporary vacancy on position of second trick Chief Caller-Clerk, a Roster "A" position.

Employee A. W. McCullough, a Roster "B" employee, having no Roster "A" seniority, was regularly assigned to a Roster "B" position, that of Janitor-Laborer at Rittman, Ohio with assigned hours 6:30 A. M. to 3:30 P. M., rest days, Saturday and Sunday, nevertheless, Carrier used A. W. McCullough to fill temporary vacancy on the Roster "A" position of second trick Chief Caller-Clerk on all of the dates mentioned in "Statement of Claim."

Memorandum of Agreement No. 1 dated July 18, 1949 reads:

"Effective September 1, 1949, it is mutually agreed that Memorandum of Agreement setting forth procedure to be followed in establishing joint Roster 'A' and 'B' relief positions, dated Cleveland, Ohio, December 17, 1948 is hereby canceled and superseded as follows:

Where on any Division, after all reasonable regular relief positions have been established composed of all Roster 'A' assignments,

CARRIER'S STATEMENT OF FACTS: During the period of Claim, W. D. Lengacher, hereinafter referred to as claimant, was regularly assigned as Chief Caller-Clerk Relief Position No. 1, at Kent, Ohio, rate of pay \$21.0504 per day, assigned days per week, Saturday through Wednesday.

T. A. Coy, first trick Chief Caller-Clerk, was scheduled to be on vacation June 21, through July 2, 1965. F. J. Archaul, regular second trick Chief Caller-Clerk, 4:00 P. M. to 12:00 Midnight, requested to work Coy's position and as the senior applicant was assigned thereto. Neither claimant nor any other Roster "B" employe made application to fill the vacancy on Archaul's position. Therefore, A. W. McCullough, a regularly assigned Roster "B" employe who had posted on the Chief Caller-Clerk positions on his own time to become qualified therefor and who had made application for the vacancy, was assigned thereto consistent with the provisions of Rule 7 of the applicable agreement. Under date of July 19, 1965, claimant instituted claim with the Trainmaster for eight (8) hours' time and one-half, each day, alleging a violation of the agreement account not doubled or allowed to work his rest days which was denied under date of July 27, 1965.

Claim was thereafter handled on appeal up to and including Carrier's highest officer designated to handle such matters (Carrier's Exhibit A). Claim was discussed in conference on February 1, 1967 and denied with denial confirmed under date of March 22, 1967 (Carrier's Exhibit B). Subsequent exchanges of correspondence are evidenced by the following Exhibits:

Carrier Exhibit C - General Chairman's letter dated March 30, 1967.

Carrier Exhibit D - Carrier's letter dated April 25, 1967.

(Exhibits not reproduced.)

OPINION OF BOARD: The parties and the issues presented are identical to those discussed in our Award 16922. For the reasons stated therein, we will deny the claim.

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 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 29th day of January 1969.

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