



Award No. 17214

Docket No. CL-17441

NATIONAL RAILROAD ADJUSTMENT BOARD

**THIRD DIVISION
(SUPPLEMENTAL)**

David H. Brown, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY, AIRLINE AND STEAM-
SHIP CLERKS, FREIGHT HANDLERS, EXPRESS
AND STATION EMPLOYES**

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

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6364) that:

1. Carrier violated the Clerks' Agreement at Seattle, Wash. when on Saturday, July 23, 1966, it used junior employe G. L. Carter to relieve Chief Car Clerk Position No. 8238 in preference to the senior employe and regular occupant of Position 8238, D. P. Cartwright.

2. Carrier further violated the Clerks' Agreement when it compensated employe G. L. Carter at the straight time rate for service rendered relieving Position 8238 on Saturday, July 23, 1966.

3. Carrier shall now compensate employe D. P. Cartwright for eight (8) hours at the penalty rate of Chief Car Clerk Position 8238 for Saturday, July 23, 1966.

4. Carrier shall now compensate employe G. L. Carter for an additional four (4) hours at the pro rata rate of Chief Car Clerk Position 8238 for Saturday, July 23, 1966.

EMPLOYEES' STATEMENT OF FACTS: Employe D. P. Cartwright, who has a seniority date of June 3, 1942, is the regularly assigned occupant of Chief Car Clerk Position 8238 at Seattle. Position 8238 is assigned from 6 A.M. to 3 P.M., Monday through Friday, with Saturday and Sunday rest days.

Employe K. L. Garceau, with a seniority date of April 27, 1964, is the regularly assigned occupant of Swing Position No. 3 at Seattle, Wash., which position relieves as follows;

Chief Car ClerkPos. 8238	6 A.M.- 3 P.M.	Sat.-Sun.
WeighmasterPos. 8639	2 P.M.-10 P.M.	Monday
Asst. Chief Yd. ClerkPos. 8632	10 P.M.- 6 A.M.	Tues.-Wed.

Employe G. L. Carter, with a seniority date of May 4, 1964, is the regularly assigned occupant of Weighmaster Positions 8639 at Seattle. Po-

Attached hereto as Carrier's Exhibit "A" is a copy of a letter written by Mr. S. W. Amour, Vice President-Labor Relations, to Mr. H. C. Hopper, General Chairman, under date of January 5, 1967.

(Exhibits not reproduced)

OPINION OF BOARD: The principles enunciated in our Award No. 17213 (Docket CL-17440) are controlling here.

Again Carrier faced a situation where relief of a position could not be provided at straight time. Under such circumstances Mr. Cartwright, the senior available employee, should have been used. The violation cost him 8 hours work at time and one half, and he should be made whole.

Again, the second violation is a distinct one. Carter worked Swing Position No. 3 within a 24 hour period commencing at the start of a previous assignment. He is entitled to the additional half time claimed. He is entitled to such overtime pay because of a contractual obligation. This is completely distinct from the claim arising because he, as a junior man, was used in preference to Cartwright.

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 violated in two particulars.

A W A R D

Both claims are sustained as presented.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 18th day of June 1969.