



Award Number 17419

Docket Number CL-17084

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Jerry L. Goodman, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS & STATION EMPLOYES
CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAIL-
ROAD COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL 6234) that:

- 1) Carrier violated and continues to violate the Clerks' Rules Agreement at Chicago, Illinois, when it assigned duties of a higher rated position to that of File Clerk Position No. 728, and failed to pay the occupant of the position the preservation of the higher rate of pay.
- 2) Carrier shall now be required to compensate employee L. A. Wolshlager, or his successor or successors, for all wage losses from January 3, 1966 until the violation is corrected.

EMPLOYEES' STATEMENT OF FACTS: Prior to September 15, 1965, Carrier maintained a Clerk-Typist Position 752 in Seniority District No. 86. The duties of this position were that of miscellaneous typing, recording of tariffs and to check and receipt all bills for tariffs. The established rate of pay of this position at the time of its abolishment was \$23.11 per day.

Employee Wolshlager is the regularly assigned occupant of File Clerk-Rates Position 728 in Seniority District No. 86. The assigned duties of this position prior to September 15, 1965 were that of filing tariffs and supplements thereto. The rate of pay of this position was \$22.17 per day on September 15, 1965.

On September 8, 1965 Bulletin #41 was issued by Assistant General Frt. Traffic Manager, W. S. McKee, abolishing Clerk-Typist Position 752 in Seniority District No. 86 effective September 14, 1965.

Effective with the abolishment of Position 752, Carrier transferred the duties of recording all tariffs and checking and receipting all bills for tariffs to Position 728, File Clerk-Rates. These duties were duties on which the rate of pay of Clerk-Typist Position 752 was predicated and amounts to four hours a day or more.

As evidenced by the Statements attached as Employees' Exhibits "A", "B" and "C" Employees C. F. Marbut, L. Wolshlager and W. R. Schauer,

Account of diminution of work, Position No. 752 was abolished effective September 14, 1965 and the remaining work thereof, less than 2 hours work per day, was transferred to Position No. 728.

The remaining work of abolished Position No. 752, which, as stated, was transferred to Position No. 728 and which, as also stated, involved less than 2 hours work per day, consisted of recording and receipting bills for tariffs and said work was most definitely not the work that made Position No. 752 a higher rated position than Position No. 728, therefore, it was not and is not necessary under schedule rules or agreements to allow the occupant of Position 728 the difference in rate as between Position No. 728 and Position No. 752 for the time consumed by the occupant of Position No. 278 in the performance of the remaining work of abolished Position No. 752, nor have any such allowances been made.

Attached hereto as Carrier's Exhibits are copies of the following letters:

Copy of letter written by Mr. S. W. Amour,
Vice President-Labor Relations, to Mr. H.
C. Hopper, General Chairman, under date
of August 5, 1966Carrier's Exhibit "A"

Copy of letter written by Mr. Amour to
Mr. Hopper under date of August 26, 1966Carrier's Exhibit "B"

Copy of letter written by Mr. Amour to
Mr. Hopper under date of January 9, 1967Carrier's Exhibit "C"

Copy of letter written by Mr. Amour to
Mr. Hopper under date of January 27, 1967Carrier's Exhibit "D"

(Exhibits not reproduced)

OPINION OF BOARD: On September 8, 1965, Carrier abolished Clerk-Typist Position 752 and transferred the allegedly higher rated duties thereof to Clerk-Rates Position 728, a lower rated position.

On March 1, 1966, a claim was filed on behalf of the occupant of Position 728 for all wage losses from January 3, 1966, on the theory that Carrier continued to violate the Agreement by failing and refusing to compensate the occupant of Position 728 at the higher rate of Position 752 for the performance of the allegedly higher rated work.

We believe, however, that the real basis for the instant claim is the abolishment of Position 752 and the transfer of the remaining work thereof to Position 728. These two events both occurred on September 8, 1965. Therefore, the instant claim should have been filed within sixty-days of that date under Article V, Section 1 (a) of the 1954 Agreement. Since, it was not the claim is hereby dismissed.

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 Employes 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 Claim is barred.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 11th day of September 1969.