

Award No. 18583

Docket No. CL-18859

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Arthur W. Devine, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY, AIRLINE AND STEAMSHIP
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-6797) that:

1) Carrier's assignment of Yard Clerk Position No. 17510 at Terre Haute, Indiana with assigned hours from 5:30 P. M. to 1:30 A. M. is in violation of the Clerks' Agreement.

2) Carrier shall compensate employee J. E. Hamblin, his successor or successors on Yard Clerk Position 17510, if any, an additional 3/4 hours at the straight time rate of Position 17510 for each work day Wednesday through Sunday, retroactive 60 days from April 22, 1969 and continuing thereafter until the violation is corrected.

3) Carrier shall compensate employee E. E. Good, his successor or successors on Relief Yard Clerk Position, an additional 3/4 hours at the straight time rate of Position 17510 for each Monday and Tuesday, retroactive 60 days from April 22, 1969, and continuing thereafter until the violation is corrected.

EMPLOYES' STATEMENT OF FACTS: Carrier has in effect at Terre Haute, Indiana, Yard Clerk positions as follows:

Position 17520 assigned	7:00 A.M. to 3:00 P.M.
" 17500	" 3:00 P.M. to 11:00 P.M.
" 17510	" 5:30 P.M. to 1:30 P.M.
" 17530	" 11:30 P.M. to 7:30 A.M.

Rule 14(c) prohibits assignments with starting or ending times between the hours 12 Midnight and 6 A. M. where three consecutive shifts are worked covering the 24-hour period.

Friday with rest days of Saturday and Sunday, located at Terre Haute, Indiana.

Attached hereto as Carrier's Exhibit "D" is a copy of Bulletin No. 10 dated January 22, 1969 assigning Claimant E. E. Good to Revising Clerk Position 16220.

As of April 22, 1967 Employee F. M. Priester III was the regularly assigned occupant of Relief Yard Clerk Position which was assigned as follows:

Day of Week	Position No.	Assigned Hours	Location
Sunday	17500	3:00 PM to 11:00 PM	Hulman Street
Monday	17510	5:30 PM to 1:30 AM	Van Yard
Tuesday	17510	5:30 PM to 1:30 AM	Van Yard
Wednesday	17530	11:00 PM to 7:00 AM	Hulman Street
Thursday	17530	11:00 PM to 7:00 AM	Hulman Street

Employee Priester III was assigned to the Relief Yard Clerk Position by bulletin dated February 4, 1969 which is attached hereto as Carrier's Exhibit "E".

As a result of the abolishment of Yard Clerk Position 17510 at Van Yard effective May 26, 1969 (Carrier's Exhibit "C") the Relief Yard Clerk Position, occupied by Employee F. M. Priester III was rebulletined on May 19, 1969 account change in assignment wherein relief previously performed on Yard Clerk Position 17510 on Monday and Tuesday was changed to provide relief on Yard Clerk Position 17540 located at Hulman Street on the days in question. Thus effective May 26, 1969 all positions relieved by the assignment in question were located at Hulman Street Yard.

Attached hereto as Carrier's Exhibit "F" is copy of letter written by Mr. L. W. Harrington, Vice President-Labor Relations to Mr. H. C. Hopper, General Chairman under date of October 3, 1969.

(Exhibits not reproduced.)

OPINION OF BOARD: At the time the claim herein arose, Carrier's operation at Terre Haute, Indiana, consisted of around-the-clock yard service at Hulman Street Yard and one yard clerk position at Van Yard. The Carrier states that the distance between Hulman Street Yard and Van Yard is about five miles by rail.

The yard clerk position at Van Yard, which was the position in controversy, had an ending time between 12 midnight and 5:00 A.M. for some thirteen years prior to the instant claim being filed on April 22, 1969. In the handling of the dispute on the property the Carrier took the position that the hours assigned to the position involved were for the purpose of meeting the requirements of the service and were in accordance with Rule 14(d) of the Agreement, reading:

"In no event may the starting time of any assignment be between the hours of 12:00 midnight and 5:00 A.M. except by agreement between the Management and General Chairman. Only such

assignments as are necessary to meet the requirements of the service may be established with ending time between 12:00 midnight and 5:00 A.M."

The Petitioner contends that the position at Van Yard must be considered together with the positions at Hulman Yard as constituting around-the-clock service at Terre Haute and that the hours of assignment are in violation of Rule 14(c) reading:

"(c) Where three consecutive shifts are worked covering the 24 hour period, no shift will have a starting or ending time after 12 Midnight and before 6:00 A.M."

We agree with the Carrier that two separate yards and/or locations within the City of Terre Haute are involved and that around-the-clock service was not maintained at Van Yard and, therefore, Rule 14(d) is applicable rather than 14(c). As stated in Award 14125 involving the same parties ---

"The second sentence of Rule 14(d) applies to ending time. It does not require an agreement between the Management and the General Chairman. It does require that the assignment be one which is 'necessary to meet the requirements of the service.' "

There is no proof by the Petitioner to show that such necessity did not exist at Van Yard. In fact, the time that such assignment was in effect would indicate the contrary.

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: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 23rd day of June 1971.

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