

Award No. 19107
Docket No. CL-19025

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Robert A. Franden, 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-6834) that:

1) Carrier violated the rules of the Clerks' Agreement at Rockford, Illinois when it unilaterally applied a rate of pay to newly established Yard Clerk Position No. 41900 at Rockford, Ill. which is not in conformity with rates for positions of a similar kind or class in the seniority district.

2) Carrier shall rebulletin Yard Clerk Position No. 41900 at Rockford, Illinois with a proper rate of pay.

3) Carrier shall compensate employee M. L. Siebel, her successor or successors, for the difference between the rate of pay applied to Yard Clerk Position 41900, and \$25.7441 per day for July 1, 1969, and each subsequent day until the violation is corrected.

EMPLOYEES' STATEMENT OF FACTS: On May 26, 1969 Carrier issued Bulletin No. 20 (Employees' Exhibit "A") abolishing Yard Clerk Position No. 41940 at Rockford, Illinois in Seniority District No. 36, effective 5 P. M., June 3, 1969. Yard Clerk Position 41940 was the last remaining Yard Clerk Position at Rockford, Illinois.

On June 18, 1969 (erroneously shown as June 1, 1969) Bulletin No. 26 (Employees' Exhibit "B") was issued to employees in District No. 36 advertising for bid Yard Clerk Position No. 41900 at Rockford, Illinois at a rate of pay of \$24.1760 per day, and showing the reason for bulletining as "Vacancy."

Following receipt of copy of Bulletin No. 26, the General Chairman wrote to Superintendent F. H. Ryan on June 20, 1969 as follows:

"This will acknowledge receipt of your Bulletin No. 26 dated June 1, 1969 (apparently erroneously dated as it was received in this

2) Carrier shall rebulletin Yard Clerk Position No. 41900 at Rockford, Illinois with a proper rate of pay.

3) Carrier shall compensate employe M. L. Siebel, her successor or successors, for the difference between the rate of pay applied to Yard Clerk Position 41900, and \$25.7441 per day for July 1, 1969 and each subsequent day until the violation is corrected.

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(Exhibits not reproduced.)

OPINION OF BOARD: Effective June 3, 1969 the Carrier abolished Yard Clerk Position 41940 at Rockford, Illinois and Yard Clerk Position 41350 at Beloit, Wisconsin. Both positions carried a daily rate of \$24.1760. By Bulletin dated June 18, 1969, Rockford, Illinois Yard Clerk Position 41900 was advertised. Said position was awarded July 2, 1969.

The Claimant alleged that the Carrier violated the Agreement when it failed to establish the proper rate of pay for position 41900 in conformance with Rule 18 which reads as follows:

"RULE 18 — RATES - NEW POSITIONS

The rates for new positions will be in conformity with rates for positions of similar kind or class in the seniority district where created. In the absence of a similar position in the district, the rate of pay for the new position will be established by agreement between the Vice President—Labor Relations and the General Chairman."

Subsequent to the abolishment of Yard Clerk Positions 41940 and 41350 there remained in seniority district 36 — three Yard Clerk positions at Green Bay, Wisconsin which positions carried a rate of pay of \$24.9943.

When positions 41940 and 41350 were abolished it became necessary for the Carrier to look to other positions of a similar kind or class in the seniority district and to establish the rate of pay for a new position in conformity therewith. It is the opinion of this Board that the Organization is correct in its assertion that the Yard Clerk positions at Green Bay are of a similar kind and class to position 41900. We have held in the past that similar does not mean that identical work must be performed by the occupants of both positions. Award 15166 (Dersey) is applicable in this case and effectively states the Board's position.

We find the Carrier's defense that the two week interval between the abolishment of the old position and the establishment of the new position resulted in only a technical violation to be totally without merit.

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.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 24th day of March 1972.