

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19575  
Docket Number CL-19583

Irwin M. Lieberman, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks,  
( Freight Handlers, Express and Station Employees  
( J. F. Nash and R. C. Haldeman, Trustees of the Property  
( of Lehigh Valley Railroad Company, Debtor

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-7023)  
that:

(a) Carrier violated the Agreement between the parties effective May 1, 1955, as revised, when it abolished position of Clerk-Stenographer at Buffalo, New York, and then re-advertised the same position as a new position at a lower rate of pay than the established rate.

(b) Carrier shall now be required to restore the established rate of this position, plus subsequent wage increases.

(c) Carrier shall now be required to pay Sylvia M. Wheeler, the proper rate of this position from July 10, 1970, up to and including such time as this violation is corrected.

OPINION OF BOARD: The position of clerk-stenographer, held by an employee about to retire, was abolished by notice dated July 1, 1970. That position paid \$692.22. A new position of clerk-stenographer was advertised on July 3, 1970 and awarded to Claimant by Assignment dated July 10, 1970. That position paid \$574.10 per month. Although the descriptions of the two positions were virtually identical, the Carrier maintained that the abolishment was due to "elimination of all chief clerk work on this assignment". The Carrier claimed that the original incumbent had supervisory responsibilities which accounted for the higher rate of pay.

Rule 56 of the Agreement states:

"Rule 56 Adjustment of Rates: When there is a sufficient increase or decrease in the duties and responsibilities of a position or change in the character of the service required, the compensation for such position will be subject to adjustment by mutual agreement with the duly accredited representative, but established positions will not be discontinued and new ones created under the same or different titles covering relatively the same class or grade of work, which will have the effect of reducing the rate of pay or evading the application of these rules."

The record in this case does not sustain the claim that there were substantial differences in the two positions. Even if there were occasional supervisory responsibilities, we have said in a very similar case (Award 6870) "This Board has long been committed to the rule that it is not necessary for an employe to take over and perform all of the duties and responsibilities of a higher rated position in order to be entitled to pay at the higher rate." In any event Carrier did not abide with the requirements of Rule 56; Carrier did not seek mutual agreement in order to modify the compensation of the position.

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.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

E. G. Kilburn  
Executive Secretary

Dated at Chicago, Illinois, this 30th day of January 1973.