

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19673  
Docket Number CL-19620

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-7042)  
that:

1. The Carrier violated the Rules Agreement as revised May 1, 1955, when it abolished position of Clerk-Stenographer, Transportation Department, assigning duties of that position to remaining Agreement covered positions in that Department, and then used an Excepted "P" position employee to perform the work.

2. Claimant employees H. F. McKellin, M. M. Repsher, G. W. Dougherty and D. A. Reed or their successors, shall be compensated two (2) hours each at the punitive rate, each and every day commencing with September 16, 1970, until such time as Mrs. Gloria Siegfried, employee holding the Excepted "P" position, is no longer permitted to perform the duties of the abolished position, and the work is returned to positions under full coverage of the Agreement, as assigned by abolishment notice dated August 24, 1970.

OPINION OF BOARD: The Petitioner brings this claim before the Board on two grounds: First, that there was no Excepted "P" position to which Mrs. Siegfried could be properly assigned following the abolition of her Clerk-Stenographer position; and Secondly, subsequent to her assignment to an Excepted "P" position she continued to perform the same duties of her previously abolished Clerk-Stenographer position.

With respect to the first contention, it is clear that Mrs. Siegfried, subsequent to the abolition of her Clerk-Stenographer position, was appointed to a vacant Excepted "P" position. This vacancy was caused by the promotion of its previous incumbent, Mrs. Kutos, to a position outside the Scope of the Agreement. The Organization argues that at the time Mrs. Kutos wasn't holding an Excepted "P" position. The Carrier, however, submitted evidence which clearly shows that Mrs. Kutos had, in fact, occupied an Excepted "P" position prior to her promotion. The Organization has not submitted evidence to the contrary. Accordingly, we find that there was an Excepted "P" position to which Mrs. Siegfried could be properly assigned.

The denial of the first part of Petitioner's argument still leaves us with the contention that fully covered work from the Clerk-Stenographer's position is assigned to the Excepted "P" position which Mrs. Siegfried now occupies. Careful examination of the record indicates that Petitioner's case is based, at best,

on unsupported allegations. There appears to be only one document to support the Organization's position that fully covered work was transferred to an excepted position: a 12-page list of file subjects, by file drawer, which Petitioner argues is evidence of the filing which had been handled by Mrs. Siegfried in her Clerk - Stenographer's position and which she allegedly still handles in her Excepted "P" position. The mere submission of a list of subjects is not sufficient to show how the filing was done and by whom at anytime, both before and after the claim date.

This entire claim suffers from lack of proof; there is insufficient evidence to support the contentions of Petitioner.

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 Employee involved in this dispute are respectively Carrier and Employee 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.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

E. A. Killen  
Executive Secretary

Dated at Chicago, Illinois, this 23rd day of March 1973.