

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21275
Docket Number CL-21130

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employes
(
(The Detroit and Toledo Shore Line Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood,
GL-7877, that:

1. The Carrier violated the effective Clerks' Agreement when it arbitrarily and improperly established a rate of pay for the new position of No Bill - Car Service Clerk without prior negotiation between the parties:
2. The Carrier shall now be required to establish, through negotiations, a proper rate of pay for the position of No Bill - Car Service Clerk;
3. The Carrier shall now be required to compensate Clerk H. C. Tooman, and/or his successor or successors in interest; namely, any other employe who may have stood in the same status as claimant, and who was adversely affected, the difference between the rate of pay of the No Bill - Car Service Clerk, established through negotiations, and the rate of pay arbitrarily established by the Carrier (\$43.4944 per day) commencing on April 8, 1974 and for each and every day thereafter, five days per week, Monday through Friday, that a like violation exists;
4. The Carrier shall now be required to compensate all other employes who were adversely affected, for the difference between the rate of pay they received and that which they would have received had the Carrier properly established a rate of pay by negotiation for the position of No Bill - Car Service Clerk and bulletined said position in accordance with Rules 9 and 10 of the applicable Agreement, to be determined by a joint check of the Carrier's records, commencing April 8, 1974 and for each and every day thereafter that a like violation occurs.

OPINION OF BOARD: Although this dispute is concerned with the position of "No Bill - Car Service Clerk" and certain of the dates are different, the same basic facts, issues and concepts before us in this Docket were presented to us in Award No. 21274. For the same reasons stated in our Award No. 21274, we dismiss this claim for failure of proof.

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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 be dismissed for failure of proof.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Paulos
Executive Secretary

Dated at Chicago, Illinois, this 15th day of October 1976.