

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21348

Docket Number CL-21280

John H. Dorsey, Referee

PARTIES TO DISPUTE:

(Brotherhood of Railway, Airline and Steamship
(Clerks, Freight Handlers, Express and Station
(Employees
(Robert W. Blanchette, Richard C. Bond and John
(H. McArthur, Trustees of the Property of
(Penn Central Transportation Company, Debtor

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood,
GL-7874, that:

(a) Carrier violated the Rules Agreement effective February 1, 1968, particularly the Scope Rule 4-F-1 2-A-1 and the Extra List Agreement, by allowing the Freight Agent at Charleroi, Pennsylvania to perform the duties of preparing waybills, picking up bills of lading from shippers and delivering them to the Freight Agent Clairton, Pennsylvania, handling railroad unemployment, make physical track checks of Carriers at Charleroi and Allenport, preparing AD 1580 Work Orders for Train Crews and other miscellaneous clerical work when Claimants were available and should have been called for work.

(b) The following be allowed eight (8) hours pay at the appropriate pro rata rate of pay for each date following their names, account of violation:

D. M. Vojnik October 11, 12, 13, 14, 15, 18, 19, 20, 21, 25,
1971.

W. P. Veres, October 22, 26, 27, November 2, 3, 9, 10, 16, 17,
1971.

T. J. Thoburn October 28, 29, November 1, 4, 5, 8, 11, 12, 15,
18, 1971.

OPINION OF BOARD: Prior to June 1, 1971, the Station Department force located at Charleroi, Pennsylvania, consisted of an Agent and three (3) clerical employees whose positions were identified as follows:

<u>Position</u>	<u>Tour of Duty</u>	<u>Assignment</u>
F-645	7:00AM - 3:00PM	DICCS operations
F-646	3:00PM - 11:00PM	DICCS operations
F-40	11:30AM - 3:30PM	outbound billing
	4:30PM - 8:30PM	

On June 1, 1971 the incumbent and the work assigned to position F-646 were transferred from Charleroi to Shire Oaks, Pennsylvania. This position was subsequently again transferred to Clairton, Pennsylvania, effective September 9, 1971. Beginning September 1, 1971, the remaining DICCIS operations at Charleroi as well as the equipment used in such operations, were transferred to Clairton, and position F-645 at Charleroi was abolished. On October 8, 1971, the work performed by the outbound billing clerk was transferred to Clairton and the incumbent of position F-40 transferred to that location with the work. After October 8, 1971, the only employe remaining at Charleroi was the Agent.

On the Claim dates in this dispute, Claimants D. M. Vojnik and T. J. Thoburn held positions XG-4 and XG-7, respectively, on Group 1 Extra List No. 20 maintained at West Brownsville, Pennsylvania, to cover vacancies and extra work in the Transportation Department. Claimant Vojnik held position XG-4 until he was displaced on October 20, 1971, and thereafter on October 29, 1971, he was furloughed.

Claimant W. P. Veres held regular clerical position, G-337 in the Transportation Department at West Brownsville, tour of duty 11:00 PM-7:00AM daily except Tuesday and Wednesday.

In essence the Claim alleges that: (1) on each of the Claim dates the Agent at Charleroi performed four or more hours of work formerly performed by the occupants of the three (3) abolished clerical positions at that point; (2) Claimants were available on the respective Claim dates shown in paragraph (b) of the Claim and Carrier was contractually obligated to call them to perform the work involved; and (3) Carrier is obligated to compensate each Claimant in the amount prayed for in paragraph (b) of the Claim.

During the course of the handling of this dispute on the property, Organization cited a plethora of Rules and Awards that it contended supported the Claim. From its study of the record this Board concludes that the pivotal Rules of the Agreement applicable in the adjudication of the dispute are:

SCORE

Group 1 - Clerks as defined in the following paragraph:

Clerk - An employe who regularly devotes not less than four hours per day to the writing and calculating incident to keeping records and accounts, writing and transcribing letters, bills, reports, statements and similar work...except as provided in Rule 3-C-2....

"RULE 3-C-2-ASSIGNMENT OF WORK

(a) When a position covered by this Agreement is abolished, the work previously assigned to such position which remains to be performed will be assigned in accordance with the following:

(1) To another position or other positions covered by this Agreement when such other position or other positions remain in existence, at the location where the work of the abolished position is to be performed.

(2) In the event no position under this Agreement exists at the location where the work of the abolished position or positions is to be performed, then it may be performed by an Agent, Yard Master, Foreman, or other supervisory employee, provided that less than four hours' work per day of the abolished position or positions remains to be performed; and further provided that such work is incident to the duties of an Agent, Yard Master, Foreman, or other supervisory employee. (Emphasis added).

(3) Work incident to and directly attached to the primary duties of another class or craft such as preparation of time cards, rendering statements, or reports in connection with performance of duty, tickets collected, cars carried in trains, and cars inspected or duties of a similar character, may be performed by employees of such other craft or class.

(4) Performance of work by employees other than those covered by this Agreement in accordance with paragraphs (2) and (3) of this rule (3-C-2) will not constitute a violation of any provision of this Agreement. "

The record before the Board contains no substantial material and relevant evidence of probative value that on the Claim dates the Agent at Charleroi performed four (4) or more hours of work that had been performed by the occupants of the three (3) clerical positions at that point before these positions were abolished. Therefore, the Board is compelled to dismiss the Claim for failure of proof.

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 Claim must 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. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 16th day of December 1976.

