

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21574

Docket Number CL-21081

Lloyd H. Bailer, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station Employees
(
(The Lehigh and Hudson River Railway Company
(John G. Troiano, Trustee

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-7863) that:

1. Carrier violated Article VII of Mediation Agreement Case No. A-8853, Sub - No. 1 dated February 21, 1971 and Rules 1 and 26 of the Current Clerks Agreement and Article V of the August 21, 1954 Agreement and that:

2. Claimant Ms. Jennie A. Mondello be compensated at the rate of time and one-half for the following hours and days:

May 16, 1974	- 4	hours	June 4, 1974	- 4	hours
" 21,	"	1 $\frac{1}{2}$	" 5	"	4
" 22	"	4	" 6	"	4
" 23	"	4	" 7	"	4
" 28	"	4	" 10	"	4
" 29	"	4	" 11	"	4
" 30	"	4	" 12	"	4
" 31	"	4	" 13	"	4
June 3	"	3	" 14	"	4

OPINION OF BOARD: Claim was initially filed June 25, 1974, timely denied, appealed on August 20, 1974 to Carrier's highest officer designated to handle such matters, and discussions were held thereafter concerning not only settlement of the claim on a compromise basis but also extensions of time limits in order to give the matter further consideration.

That Claimant was "assigned" half-time to leave her regular assignment as Traffic Clerk and perform work on an "abolished" Car Record Clerk position from May 15 to June 3, 1974, and retained to assist the Car Record Clerk from June 3 to June 17, 1974, is apparent in the record and also appears in the Opinion of Board of this Division's Award 20996.

Award 20996 found that Article VII(a) was violated in that Claimant therein should have received the usual notice of job abolishment, but the award did not find the abolishment itself to be in violation of the Agreement and it is not proper to consider such argument here inasmuch as it was not raised on the property.

We are not disposed to sustain the claim on the basis of the Time Limit Rule and the arguments relative to waiver thereof contained in the record. Rather, it appears from the record that the parties were on the verge of settling the claim for a flat sum of \$300.00 until the procedural arguments arose and the parties' positions hardened.

Without reciting all of the elements in the record which lead us to our conclusion, we will find that the Agreement was violated to the extent that we will award Claimant the sum of \$300.00.

We would also point out that had the parties spent the same amount of time and effort attempting to reach agreement with respect to temporarily adjusting forces prior to the fact, the charges of improper abolishment, suspension of work to avoid overtime, and wrongful assignment of schedule work to excepted employees would doubtless have been avoided.

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 violated.

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Claim sustained to extent indicated in Opinion of Board.

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By Order of Third Division

ATTEST:

A. W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 17th day of June 1977.