

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21967
Docket Number CL-21829

Don Hamilton, Referee

PARTIES TO DISPUTE:

(Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station Employees
(
(Consolidated Rail Corporation
((Former Lehigh Valley Railroad Company)

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-8214) that:

(a) The Carrier violated the Rules Agreement, particularly Rules 1, 3, 6, 7, 43, 44 and other Rules, as well as the Extra List Agreement, when it assigned and permitted Mr. T. Ferry to perform the duties of Lead Clerk, Flexo Writer, 7:00 A.M. to 3:00 P.M., on the following dates: February 15, March 1, 8, 15, 22 and 29, April 5, 1975, at Washington Street, Jersey City, New Jersey.

(b) Claimant John Baggar, be allowed one (1) day at eight (8) hours at the time and one half rate of pay for the above mentioned dates, continuing until the violation is corrected.

OPINION OF BOARD: The Claimant was regularly assigned as Lead Clerk with rest days Saturday and Sunday. The Organization alleges that work necessary to be performed on the rest days of the position accrues to the incumbent unless there is an available extra employe who does not have forty hours in his workweek. It is the position of the Brotherhood that the individual used on the dates of the claim, all of which are Saturdays, is not a bona fide employe.

Questions raised by the Organization in regard to seniority are not controlling in this case. Mr. Ferry was a bona fide employe and the Carrier acted properly in assigning him to perform the duties of Lead Clerk on the dates in question.

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 Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 31st day of March 1978.

