

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22578
Docket Number CL-22423

Robert A. Franden, Referee

(Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station Employees
PARTIES TO DISPUTE: (
(The Baltimore and Ohio Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-8506) that:

(1) The Carrier violated the Clerk-Telegrapher Agreement, beginning December 10, 1975, at Baltimore, Maryland, when it instructed and required Location Clerks H. K. Loudenslager, M. B. Kubas, H. W. Harvey, R. D. Posey, C. D. McFadden and H. J. White to perform Zone Accounting Bureau Clerks' work, and failed to properly compensate them therefor, and

(2) That H. K. Loudenslager, M. B. Kubas, H. W. Harvey, R. D. Posey, C. D. McFadden and H. J. White, be paid the difference between what they were paid as Location Clerks at Locust Point Yard (\$48.24 per day), and that of Zone Clerk at Camden Zone Accounting Bureau (\$49.52 per day), a total of \$1.28 per day, beginning December 10, 1975, and continuing for each subsequent date until the violation is corrected.

OPINION OF BOARD: Commencing on December 10, 1975 certain new work was assigned to claimants to be performed along with their already assigned functions at Baltimore, Maryland. The Organization contends that the work was Zone Accounting Bureau Clerks' work and being such entitled, the claimant Location Clerks to be paid at the higher Zone Accounting Clerks' rate.

The Organization bases the claim on violation of Rules 15, 16, 17, 20, 71 and 75. The Carrier takes the position that the work in question was not higher rated work such as would entitle the claimants to the higher rate.

We have read the rules carefully and are of the opinion that only rule 17 could possibly serve as a basis for a claim under the facts herein:

"RULE 17

Change In Duties and New Positions.

When new positions are created, duties of existing positions materially changed or duties of existing positions changed from one class to another, compensation will be fixed in conformity with the same class and character of positions as are specified in the wage scale for the portion of the division on which located, and the rules will apply to employees filling such positions; provided, the entering of employees in the positions occupied in the service or changing their classification or work shall not operate to establish a less favorable rate of pay or condition of employment than is herein established. New rates of pay to be effective from date first taken up by the representative of the employees.

(It is understood that when increases are granted under the terms of this paragraph to certain positions on account of increased duties, such increases will be eliminated when the increased duties for which the increase was granted are discontinued.)"

Under rule 17 if the duties of an existing position are "materially changed", the compensation of the employee holding that position will be fixed in conformity with the same class and character of positions as are specified in the wage scale for the portion of the division on which located. This Board must determine whether the new duties assigned to claimants materially changed their duties, such as to allow them the higher rate.

The Organization alleges that the claimants' duties were changed from the preparation of memo waybills to the preparation of regular waybills. The Carrier has responded that the claimants were not required to prepare regular waybills in that they were not required to compute charges or prepare revenue or freight bills. They were required to prepare a document with sufficient information entered thereon so as to permit the car, to be moved but something short of a regular waybill.

There is no question but that the duties of the claimants were changed. Had the record sustained the claimants' burden that the changes were material we would sustain the claim. Based on the record, however, we are unable to conclude that on December 10, 1975 the Carrier made requirements of claimants such as would entitle them to the relief claimed.

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 Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Executive Secretary

Dated at Chicago, Illinois, this 30th day of October 1979.