

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22753
Docket Number CL-22809

George E. Larney, Referee

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

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-8769) that:

1. The Carrier violated the effective Clerks' Agreement when it called Chief Clerk F. J. Cooke to fill the balance of the assignment of Position No. 27, Crew Clerk, on November 1, 1977, and failed and refused to compensate him eight (8) hours' pay at the time and one-half rate of said position.

2. The Carrier shall now be required to compensate Clerk F. J. Cooke for five (5) hours' pay at the time and one-half rate of Position No. 27 for November 1, 1977.

OPINION OF BOARD: On November 2, 1977, while working his regular assignment as Crew Clerk - Position No. 27, with assigned hours of 10:55 p.m. to 6:55 a.m., in the Crew Board Office at Carrier's Clearing Yard in Chicago, Illinois, Mr. Richard Downs became severely ill from smoke fumes emanating from a lighting transformer which had burned out at about 2:45 a.m. As the Crew Board Office is a continuous round-the-clock operation, responsible for calling engine and train service crews, yardmasters, switchtenders and car retarder operators, Clerk Downs, upon a determination he was too ill to fulfill his assignment, called the Claimant, Mr. Frank J. Cooke, the Chief Clerk - Position No. 11, with assigned hours of 6:55 a.m. to 2:55 p.m., to relieve him. Mr. Cooke arrived at the Crew Board Office at approximately 4:30 a.m. to relieve Mr. Downs and also to complete his own regular assignment for that day which began the same time Mr. Downs' assignment ended, 6:55 a.m. Upon completion of his assignment, the Claimant filed a time slip for 8 hours' pay at the time and one-half (1½) rate of Position No. 27 and 8 hours' pay at the pro rata rate of his own position.

Accordingly, Claimant received payment for these amounts in his following pay check. Subsequently, Claimant received a letter from Carrier's Assistant Superintendent under date of January 6, 1978, informing him that he had been overpaid for his time in relieving Mr. Downs on the morning of November 2, 1977, and as a result five (5) hours at time and one-half (1½) was being deducted from his next pay period.

The record before the Board is abundantly clear, substantial and persuasive with regard to the existence of a long standing practice and interpretation upon the rule in dispute. This clearly supports the position of the employees, and includes a settlement made by the former Director of Labor Relations and Personnel on the identical issue. We note that the settlement was not captioned to be "without precedent" or "without establishing a practice." Rather, it was clear and to the point that the dispute would be settled by allowance of the claim consistent with the request of the employees. This, coupled with other evidence, is clear and convincing that the claim should be sustained.

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

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That the Agreement was violated.

A W A R D

Claim sustained. Carrier shall compensate Clerk Frank J. Cooke for five (5) hours' pay at the time and one-half (1½) rate of Position No. 27 for November 2, 1977.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: *A. W. Paulos*
Executive Secretary

Dated at Chicago, Illinois, this 29th day of February 1980.