

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23306  
Docket Number CL-23241

Martin F. Scheinman, Referee

PARTIES TO DISPUTE: { Brotherhood of Railway, Airline and Steamship Clerks,  
                              { Freight Handlers, Express and Station Employees  
                              { Norfolk and Western Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood  
                              (GL-8922) that:

1. Carrier violated the Agreement between the parties when on January 9, 1978 the Teletype machines were removed and the work formerly performed on those machines, by the "BE" Telegraph Operators, was assigned to lower rated clerical positions.

2. Carrier further violated the agreement when Superintendent B. J. Hoops failed to decline the portion of claim from January 10, 1978 and continuing.

3. Carrier shall now pay the occupants of positions No. 103, No. 241 and No. 363 the difference in the rates for four (4) hours January 9, 1978 and continuous thereafter.

OPINION OF BOARD: By notices dated January 6, and January 9, 1978, telegraph machines located in the "BE" telegraph office were removed from service and the messages of record were then assigned to the Administrative Message Switching System on the computer. This system is operated by the IBM Clerks on Positions Nos. 103, 241 and 363.

Since all of these positions have a lower rate than the telegraphic position, the Organization claimed that the occupants of Positions Nos. 103, 241 and 363 were owed the difference in the rates for four (4) hours per day from January 9, 1978 and continuous thereafter.

Rule 12 (Bulletining New Position Vacancies), Rule 36 (Absorbing Overtime), Rule 49 (Preservation of Rates), and Rule 50 (New Positions) were all relied upon by the Organization in support of its position that Carrier violated the Agreement when it required employees of lower rated positions to perform the duties of higher rated positions and refused to compensate them accordingly.

In addition, the Employees contend that Carrier violated the Agreement by failing to properly decline the claim from January 10, 1978 onward.

We will first address the procedural argument raised by the Organization. The crux of the Organization's contention is that Superintendent B. J. Hoops's denial of the claim on July 25, 1978, failed to specifically decline the portion of the claim from January 10, 1978 onward. For this reason, the Employee's asserted that Rule 38 was violated.

In Award No. 19255 this Board was confronted by a similar claim by an organization that a denial was improper because it did not specifically mention that the denial covered "all following dates until the violation is corrected." There we concluded that a denial, similar in nature to the denial by Superintendent Hoops, was all inclusive and had the effect of denying all other claims presented. Specifically, we determined that the failure to mention the words "all following dates until the violation is corrected" does not in any way lessen the effectiveness of the complete denial of the claim. Nothing contained in the record convinces us that our decision in Award No. 19255 was incorrect. Therefore, we must conclude that Superintendent Hoops's denial of the claim meets the requirement of Rule 38.

We will next turn to the Organization's claim on the merits. We have examined with great detail each of the work rules cited by the Organization to support its position that the Agreement has been violated. After reviewing the evidence presented on the property as well as the submissions to this Board, we are persuaded that the assignment to the Claimants was not improper. The claim must be denied.

The evidence conclusively established that under the Administrative Methods Switching System the clerk continues to transmit information in the same manner as done in the past. The clerk keypunches the message on the card which is in turn placed in a sending device for transmission to the receiving point where a similar device prints the message. In essence, the work of transmitting and receiving information, formerly done manually, is now accomplished by the use of punched cards inserted in a device which electrically transmits impulses to another location. Stated simply, the work involved is not unlike the work that Claimants performed before the change. That is, clerks routinely sent messages and punched cards when the teletype machines were utilized. They continue to send messages and punch cards under the Administrative Message Switching System.

We will deny the claim.

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;

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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. Paulsen  
Executive Secretary

Dated at Chicago, Illinois, this 29th day of May 1981.