

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23325
Docket Number CL-23143

Arnold Ordman, Referee

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

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-8882) that:

(a) The Carrier violated Rule 12 and others of the Clerks' Agreement October 14, 15, 16 and 17, 1975 when they required Chief Clerk Vernon Cecil to suspend duties on his regular assignment and perform duties assigned position of Demurrage Clerk, C-82, on each date.

(b) Carrier shall now allow Claimant Vernon Cecil eight (8) hours pay at the pro rata rate for each date as a result of this violation.

OPINION OF BOARD: In October of 1975 on four successive days, October 14, 15, 16 and 17, Chief Clerk Vernon Cecil, C-26, Claimant herein, was assigned to do work of the Demurrage Clerk, C-82, as well as his own assignment. The Organization protested the assignment as violative of pertinent language in the Agreement and asked that Claimant be compensated at the pro rata rate for each of the named dates.

Our review of the entire record makes it appear that our Award No. 23324 is of special significance here. Indeed, the situations are virtually identical. Here, as in that case, the Organization contends that the assignment is violative of Article 12(a) (1), and the Note thereto, because Claimant who as Chief Clerk performed exclusively inside duties was being assigned to a position where outside duties were involved. Here, also, as in that case, Carrier's basic defense is that Claimant because of his supervisory status as Chief Clerk vis-a-vis the demurrage clerk must be considered as being assigned to both inside and outside duties. Here, also, the Carrier makes reference, in its letter of July 23, 1979, to an additional defense that the regular duties of a Chief Clerk called for the performance of outside duties.

The difference between the two cases is that in the prior case the July 23, 1979 letter was dated four days after the filing of the notice of intent whereas in the instant case both documents bore the same date July 23, 1979. Our view of the respective records, however, satisfies us that in neither instance was issue joined on the property as to whether the regular duties of a Chief Clerk required the performance of outside duties.

Accordingly, on the basis of the authorities cited in the prior Award, we will not consider the second of the two contentions here advanced and make no finding as to the merits of that contention.

As to other questions in dispute, for the reasons set forth in our prior Award, we are of the view and conclude that there was a violation here and sustain the entire 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;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was violated.

A W A R D

Claim sustained; Claimant shall be allowed eight (8) hours pay at the pro rata rate for October 14, 15, 16 and 17, 1975.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. W. Paulsen
Executive Secretary

Dated at Chicago, Illinois, this 19th day of June 1981.

