

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23442
Docket Number CL-23431

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: { Brotherhood of Railway, Airline and Steamship Clerks,
 { Freight Handlers, Express and Station Employes
 (Maine Central Railroad Company
 (Portland Terminal Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-9272) that:

1. Carrier violated the current Clerks' Agreement dated March 1, 1953, as amended, when it used M. J. Hartery, Yard Clerk, 7 AM to 3 PM, to cover vacant yard clerks's position, Bangor, Maine, Saturday, May 28, 1977.

2. Carrier shall compensate claimant M. J. Hartery, the higher rate of pay. His regular position rated \$50.04 per day and the position he was instructed to perform rated \$52.4148, difference of \$2.3748 should be paid.

3. Carrier shall compensate claimant eight (8) hours' pay due to being diverted to said vacancy.

OPINION OF BOARD: On the day in question, Yard Clerk, Spellman was on vacation, and Yard Clerk, Hartery (who worked the same shift and the same hours) was instructed to cover the vacant assignment when he reported for duty. The rate for the absent clerk was \$52.4148 per day, whereas the Claimant's rate was \$50.04 per day.

The Claimant seeks, in Claim No. 2, the difference in pay for the day, as well as 8 hours of pay (in Claim No. 3) for being diverted to said vacancy.

We are inclined to find that the Carrier violated Rule 15 by not paying the Employe the higher rate of the two positions for the day in question, and we will sustain Claim No. 2. We find no basis in the record for a sustaining award for Claim No. 3.

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 violated.

A W A R D

Claim No. 2 is sustained, as stated in the Opinion of Board.

Claims No. 1 and 3 are denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Pauls

Executive Secretary

Dated at Chicago, Illinois, this 3rd day of November 1981.