

SPECIAL BOARD OF ADJUSTMENT NO. 505

PARTIES ) Brotherhood of Railway, Airline and Steamship Clerks,  
TO ) Freight Handlers, Express and Station Employees  
DISPUTE ) and  
Chesapeake and Ohio Railway Company (Chesapeake District)

QUESTIONS

- AT ISSUE: (1) Is Claimant E. E. Adkins entitled to a protected rate of \$28.08 per day (1966 rate), the rate of the position to which he was regularly assigned on October 1, 1964?
- (2) If the answer to Question No. 1 is in the affirmative, shall the Carrier now be required to compensate E. E. Adkins for any loss sustained by reason of its failure to so protect him at that rate?

OPINION

OF BOARD: The parties are in agreement as to the facts. Through a series of errors, Adkins was permitted to displace Dillon and was himself displaced by a senior employee. Thereafter, a claim was filed on behalf of Dillon which was settled for \$1,451.82. However, although Adkins was improperly on this position on October 1, 1964, nevertheless, the Organization contends that he should continue to be paid on the basis of the higher rate.

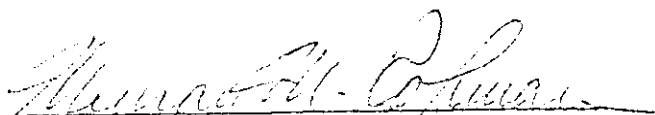
The issue presented herein involves the unusual situation that despite having only one position of Special Statistical Clerk A-216, rate of \$29.49 per day, the Carrier, at the present time, is paying two employees the specified rate for this position under the Job Stabilization Agreement.

The genesis of this dilemma was the Organization's contention that Dillon was the proper incumbent of the job on October 1, 1964, instead of Adkins, to which the Carrier agreed. Subsequently, the Organization reversed its position and argued that Adkins was the proper employee. Hence, the Organization now insists that both employees be protected on the one position.

It appears to us that Claimant Dillon, the proper incumbent of the position, is the only one who is entitled to the protection.

Award

Based on the facts in this case the answer to questions 1 and 2 is in the negative.

  
Murray M. Rohman  
Neutral Member

Dated: Washington, D. C.  
March 7, 1969