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SPECIAL BOARD OF ADJUSTMENT NO. 167

(D&RGW)

AWARD NO. 19

Organization's File
101-C-23

Carrier's File
CL-5-56

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood that:

"(1) Carrier violated rules of the current Agreement with the Brotherhood of Railway Clerks when it required Mr. C. A. McLaughlin to suspend work on his regular assignment of Train Clerk to climb on engines to obtain waybills at North Yard in Denver, Colorado.

"(2) Mr. C. A. McLaughlin shall now be compensated for an additional day's pay for each day this violation has occurred and for each additional violation until this practice is corrected."

FINDINGS: The issue here is whether claimant Train Clerk at North Yard, Denver, suspended work on his regular assignment and became entitled to an additional day's pay when he was required to climb on the engine to obtain the waybills placed in the cab for him instead of having them tossed down to him from the engine as previously had been done.

It is urged that it is dangerous for employees to climb on the engine but this Board is not authorized to pass upon the safety of employment or to require additional pay based on lack of safety.

Climbing on the engine required a few steps more work and a few moments more time but did not result in Claimant suspending work on his regular assignment unless it was work not properly assigned to him. It is urged that the work belonged to another craft: the Conductor, the Engineer, or the Brakeman, or in any event to a Messenger.

It appears to be the duty of the conductor to deliver all freight with its accompanying bills at its destination or the terminal and it was the duty of Claimant as Train Clerk there to receive the bills. No rule seems to direct or control the place or manner of such delivery by the conductor or receipt by the train clerk and no consistent and recognized practice is shown as to place and manner of delivery. The Organization asserts that at certain other points the conductor carries the bills from some trains to the yard office and carries them from other trains to the telegraph office, while at North Yard the train clerk has customarily received them from the engine where they were tossed down to him by the engineer or fireman. This appears to have been a gratuitous service by the engineer or fireman to the clerk to facilitate his receipt of the bills. It is not shown to have been done to assist the conductor rather than the clerk, nor is it shown to have been within the scope of the duties either of the fireman or of the engineer. There is no suggestion that a messenger has ever been used to carry the bills from the conductor to the train clerk or that one is needed for that purpose so there is no support to the contention that it was messenger's work.

Award No. 19

We find nothing in the rules or the practice to prevent Carrier from requiring the train clerk to pick up the bills at a designated place in the engine cab instead of having them tossed to him from the cab.

AWARD: Claim denied.

/s/ Mortimer Stone
Mortimer Stone, Chairman, Neutral Member

/s/ D. L. Clavel
D. L. Clavel, Carrier Member

Wm. J. Donlon, Organization Member