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Docket No. CL-7835
Award No. 8

SPECIAL BOARD OF ADJUSTMENT NO. 177 (PRR)

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(a) The Carrier violated the Rules Agreement, effective May 1, 1942, except as amended, particularly the seniority rules by using Margaret Everett, a junior clerk, to perform overtime service on March 28, 1953, President Station, Baltimore, Maryland, Maryland Division.

(b) A. P. Santoro, Clerk, be allowed four hours' pay at the punitive rate of pay on account of this violation. (Docket E-875)

FINDINGS: An increase in the volume of outbound billing on Saturday made necessary the use of an additional clerk at President Station, Baltimore, to perform that work. No employe on the extra list was qualified or available. The regularly assigned outbound billing clerk declined to accept the work as overtime. A regularly assigned inbound billing clerk was used for a period of four hours and claim was filed in behalf of Claimant who was a regularly assigned clerk having duties to prepare local and interline reports and was senior on the roster to the clerk who was used.

Carrier justifies the use of the junior clerk first, on the ground that Claimant was not capable of performing the work with sufficient speed to meet the outbound trains and therefore, was not qualified. The test of qualification is not comparative speed but sufficient fitness and ability. These are not denied and in view of the showing of Claimant's billing experience in the Employees' submission we think the conclusion that he had not sufficient speed was without adequate factual support.

The right of qualified and available employes in an eligible class to be called in order of seniority is inherent in the agreement. While the urgency of the work may be an important factor in determining availability it was not a factor in the situation before us since Claimant was apparently as quickly available as the employe called.

AWARD: Claim sustained at pro rata rate.

/s/ R. H. Skinner, Jr.
R. H. Skinner, Jr., Carrier Member

/s/ S. V. W. Loehr
S. V. W. Loehr, Employe Member

/s/ Mortimer Stone
Mortimer Stone, Chairman