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SPECIAL BOARD OF ADJUSTMENT NO. 167

(D&RGW)

AWARD NO. 18

Organization's File  
105-D-2

Carrier's File  
CL-9-56

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood that:

"(1) The Carrier violated the current Clerks' Agreement when it assigned the duties of Telegraph Clerk to the callers in Agency Yard Office Seniority District who work for a lower rate of pay than is paid to the Telegraph Clerks; and that

"(2) Narvil Mathia, A. E. Moore, K. C. Walter, C. E. Freeman and all other clerks who have worked or who work the position of caller in West Yards, Grand Junction, be paid thirty-six cents per day, which is the difference between what they have been paid and what they should have been paid. This claim is for all work performed from December 1, 1955 to and including the date the higher rate is placed in effect."

FINDINGS: This claim involves the same work complained of in the preceding claim, Organization's File 105-C-27, which was decided in our Award No. 17. As we there held, the employees have failed to establish that the work complained of was not properly required of claimants so this claim must fail on the merits.

However, Article V, Section 1(a) of the Agreement signed at Chicago, Illinois, on August 21, 1954, requires that should any claim be disallowed the Carrier shall within sixty days notify whoever filed the claim in writing of the reason for such disallowance.

The reason given in writing of the disallowance of this claim by the Superintendent was "per our conference, claim is declined." No showing is made as to what reasons were given in conference or whether any reasons were given.

Said Section further provides that "If not so notified, the claim or grievance as presented shall be allowed."

Accordingly, the claim must be allowed from December 1, 1955, to March 9, 1956, when reasons in writing were given for the disallowance.

AWARD: Claim sustained as per findings.

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

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

/s/ Wm. J. Donlon  
Wm. J. Donlon, Organization Member