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SPECIAL BOARD OF ADJUSTMENT NO. 167

AWARD NO. 7

Organization's File

101-C-16 (a)

Carrier's File

CL-33-55

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood that:

"(1) The Carrier violated rules of the current Agreement with the Brotherhood of Railway Clerks when effective July 1, 1955, it consolidated Roster No. 3, Office of Auditor of Passenger Accounting, and Roster No. 4, Office of Auditor of Car Service Accounting, without agreement and over the protest of the Brotherhood.

"(2) Mr. I. D. Fredericks shall be compensated for the difference in rate of pay between that of Chief Clerk, \$17.05 per day, and that of his present position, \$15.45 per day.

"(3) Mable A. Estabrook, an employee holding seniority on Roster No. 3, shall be compensated for an additional day's pay at rate of \$15.46 per day for every day this violation continues account illegally displaced from her position by J. J. Sweeney, an employee holding seniority on Roster No. 4.

"(4) Lydia H. Hayes shall be compensated for the difference in rate of pay between \$15.11 per day and \$14.97 per day.

"(5) H. H. Valentine, an employee holding seniority on Roster No. 4, shall be compensated for an additional day's pay at rate of \$14.97 per day for every day this violation continues account illegally displaced from his position by Lydia H. Hayes, an employee holding seniority on Roster No. 3.

"(6) Kathleen B. Crawford shall be compensated for the difference in rate of pay between \$14.38 per day and \$14.01 per day.

"(7) Ruth L. Waldeck, an employee holding seniority on Roster No. 3, shall be compensated for an additional day's pay at the rate of \$14.56 per day for every day this violation continues account illegally displaced from her position by Dorothy R. Grant, an employee holding seniority on Roster No. 4.

"(8) R. E. Lapsley shall be compensated for the difference in rate of pay between \$14.13 per day and \$13.35 per day.

"(9) W. B. Walters shall be compensated for the difference in rate of pay between \$13.35 per day and \$11.66 per day for the period July 12, 1955, to and including July 22, 1955, when he moved into another department.

"(10) G. T. Willingham shall be compensated for an additional one and one-half hour's pay at the rate of \$13.35 per day account required to suspend work on his regular assignment on Roster No. 4 to open and distribute mail for Passenger Accounting Department, work previously performed by employees on Roster No. 3.

"(11) Senior employee on Roster No. 3 be compensated for one and one-half hour's pay each day until violation listed in (10) above is corrected.

"(12) That any and all employees who have or who may in the future suffer any adverse effect as a result of Carrier's action, even though not above specified, shall be compensated for all losses suffered, amount to be determined by joint check of payrolls and assignments."

FINDINGS: This claim challenges Carrier's right to consolidate Seniority Districts without negotiation and agreement.

Rule 5 on which employees rely comes within Article III of the Agreement, which is entitled "Seniority" and has to do with seniority rights.

Rule 5 provides that seniority rights will apply and rosters will be maintained separately as follows: ***** 3. Office of Auditor of Passenger Accounting. 4. Office of Auditor of Car Service Accounting. ***** (including in all 32 seniority districts and rosters)

Rule 20 of Article III provides: "When for any reason two or more seniority districts are consolidated or divided, employees affected shall retain their seniority rights on the district to which transferred. ***"

Carrier has consolidated Districts 3 and 4 and loss claims have been filed for employees adversely affected.

In the absence of restrictive rule Carrier may consolidate districts at will. Both Rules 5 and 20 are seniority rules. They must be construed together. In substance they provide that seniority rights will apply separately on the districts as described and in case of the consolidation

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or division of districts they will be retained on the district to which transferred. The maintenance of rosters is important only to identify seniority rights.

By such protection of seniority rights we can find no intent to prohibit the consolidation or division of districts. If such was the intent Rule 20 would seem meaningless since if consolidation required negotiation and agreement the adjustment of seniority rights would be accomplished by the negotiation and might be quite different than those provided in Rule 20. So there was negotiation and agreement in connection with the consolidation of the Salida Station and Yard Forces District with that of the Grand Junction Division Superintendent, where the provision for seniority rights was desired differing from that provided in Rule 20.

In Award 6066 on this property, Referee Wenke construed Rule 5 in connection with Rule 21 and held that Carrier was not restricted or limited in transferring work from one seniority district to another. The same reasoning requires denial of claim.

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