

COPY

SPECIAL BOARD OF ADJUSTMENT NO. 192

PARTIES:

BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYEES
and
THE BALTIMORE AND OHIO RAILROAD COMPANY

AWARD IN DOCKET NO. 31

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

(1) Carrier violated the Rules of the Clerks' Agreement at Toledo, Ohio, when on Sunday, October 16, 1955, Stenographer Clerk L. M. Waltner was denied the right and opportunity to perform work on his position on that Sunday that he performs as part of his regular assignment from Monday through Friday, and

(2) That Carrier shall now compensate Stenographer Clerk L. M. Waltner for a four (4) hour call for Sunday, October 16, 1955.

FINDINGS:

At Toledo in the Terminal Trainmaster's Office there are positions of Stenographer-Clerk and General Clerk. The Stenographer-Clerk position is assigned Monday through Friday. The General Clerk is assigned Tuesday through Saturday. The Steno-Clerk position processes time slips Monday through Friday. That work is performed by the occupant of the General Clerk's position on Saturdays. On the Sunday involved in the claim the General Clerk was used to perform four hours of service in processing time slips and four hours work normally performed on the General Clerk's position. The occupant of the General-Clerk's position is senior to the occupant of the Stenographer-Clerk position.

The employees contend that under Rule 4(b-2) the Stenographer-Clerk as the regular employee should have been called to perform the time slip processing.

The Carrier contends that there is an overlapping of work on the two positions and that where the overtime work involved belongs to either of two positions when it is necessary to call the regular employee the senior employee should be used.

Rule 4(b-2) reads:

"Where work is required by the Management to be performed on a day which is not a part of any assignment, it may be performed by an available extra or unassigned employee who will otherwise not have forty (40) hours of work that week; in all other cases by the regular employee."

There was no available extra or unassigned employee who did not have forty hours of work in the week involved so the sole question is whether or not the claimant or the occupant of the General Clerk's position should have been called to perform the time slip processing on Sunday. It may be conceded that the principle contended for by the Carrier is correct but whether or not it was properly applied in this instance is another question. It is quite clear that the work of processing time slips is regularly performed by the Stenographer-Clerk five out of the six days such work is performed. When performed on Saturdays it is merely absorbed on the General Clerk's position in conjunction with other duties. It is work clearly identifiable as that of the stenographer-clerk and as to which under the facts here the incumbent of that position was the "regular" employe as that term is used in Rule 4(b-2).

AWARD

Claim sustained.

/s/ Francis J. Robertson
Chairman

/s/ E. J. Hoffman
Employee Member

/s/ T. S. Woods
Carrier Member

Dated at Baltimore, Maryland this
25th Day of August, 1959.