

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. 34

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

(1) Carrier violated Rule 4(g-1) and other Rules of the current Clerks' Agreement at Grafton, W. Va., when it did not permit senior unassigned Clerk R. J. Waters to fill a vacancy on a position of Field Caller, and

(2) That R. J. Waters now be compensated for one day on April 27, 1955, rate of pay \$13.11.

FINDINGS:

Claimant, an extra clerk, worked on a position assigned hours 3 P.M. to 11 P.M. on April 27, 1955. Another vacancy arose on another position hours 11 P.M. to 7 A.M. of the same day. A junior man was used. The employes contend that the claimant as the senior employe should have been called to fill the vacancy.

It is implicit from the seniority provisions of the agreement and from the provisions of Rule 4 that in the absence of agreements establishing extra boards or other agreement affecting assignment of extra employes, preference to work arising during a given work week should be given to the senior employe who otherwise will not have 40 hours of work in that week. Rule 4 (g-1) protects the carrier from any penalty payment by reason of the extra employe working more than one job in a day in permitting extra employes to work more than 1 shift in a twenty-four hour period without premium pay.

The Carrier seeks to have this Board refuse jurisdiction on the ground that under Rule 37 (h) the matter subject of claim is one for negotiation. It is true that this rule provides that rules governing the manner of working extra forces where employed will be established in writing by agreement between the local officer of the railroad and the Division Chairman. Further, the parties are required by that rule to negotiate in good faith and reach agreement on proper handling of extra forces and this Board finds that they should do so. Until a more definitive rule is arrived at by that process, the existing rules should be applicable and as stated above they require preference in extra work to be given to the senior qualified employe within his physical capacity to perform the same provided he would not otherwise have 40 hours of work in the work week. The claimant met those conditions and therefore his claim should be allowed.

AWARD

Claim (1) and (2) sustained.

/s/ Francis J. Robertson
Francis J. Robertson
Chairman

/s/ E. J. Hoffman
E. J. Hoffman
Employee Member

/s/ T. S. Woods
T. S. Woods
Carrier Member

Dated at Baltimore, Maryland this
13th day of January, 1959