

COPY

SPECIAL BOARD OF ADJUSTMENT NO. 192

PARTIES:

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

AWARD IN DOCKET NO. 45

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

(1) Carrier violated Rule 27 and other Rules of the Clerks' Agreement when it required and/or permitted Yard Clerk G. W. Gooding, A Group 1 employe at Columbus, Ohio, to handle company mail to and from freight trains operating through Columbus, Ohio, and

(2) That Yard Clerk G. W. Gooding be compensated for one additional day at the rate of \$15.23 for the following dates: July 22, 25, 26, 27, 28, 29, August 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 15, 16, 17, 18, 19, 22, 23, 24, 25, 26, 29, 30, 31, September 1, 2, 5, 6, 7, 8, 9, 12, 13, 14, 15, 16, 20, 21, 22, 23, 26, 27, 28, 29, 30, October 2, 4, 5, 6, 7, 10, 11, 12, 13, 14, 17, 18, 19, 20, 21, and all subsequent dates, exclusive of rest days, which are Mondays and Tuesdays, and

(3) Janitor J. A. Peters, a Group 2 employe, be compensated for four hours per day at penalty rate on the same dates because of the Group 1 Yard Clerk being required and/or permitted to perform the Group 2 work.

FINDINGS:

With the discontinuance of certain passenger trains operating between Newark and Cincinnati on July 21, 1956, company mail to and from Columbus was handled on freight trains. The third trick yard clerk at Columbus after receiving same from the freight office sorts the mail and delivers outgoing mail to the head brakeman and receives a sack of incoming mail which he takes to the yard office to be picked up by a messenger from the freight office. He follows quite the same procedure in delivering mail to and receiving mail from a conductor on another freight train. These trains clear Columbus at a time when no messengers are on duty.

Claim is filed on behalf of the Yard Clerk allegedly because the carrier violated Rule 27 and other Rules of the Clerks' Agreement in requiring or permitting him to handle the mail in the manner aforementioned and on behalf of the janitor at Columbus, a group 2 employe, because of a Group 1 Yard Clerk being required to perform the Group 2 work.

It is implicit in the definition of a clerk as appearing in Rule 1 of the Agreement that it is recognized that a Group 1 employe is not confined to the performance of work of the clerical nature described in that definition. This, for the reason that regularly devoting four hours per day to that type of work constitutes the employe a "Clerk" and consequently a Group 1 employe. Inasmuch as the agreement provides that eight hours of work or less, exclusive of meal period shall constitute a day's work it seems apparent that the parties contemplated that a "clerk" would be performing some services not requiring clerical ability in order to fill out his day.

Considering Rule 1 and Rule 27 together the intent of the parties in dividing the classes of employees covered by the agreement as set forth in Rule 1 would appear to be to establish groups for purposes of seniority and classification. That it was not intended to constitute a rigid reservation of right to the exclusive performance of work on behalf of one group as opposed to another is apparent from the language of Rule 27 which while providing that employees in the various groups are only entitled to and shall retain seniority in their respective groups also permits transfer or promotion from one group to another by agreement between management and the General Chairman or their authorized representatives but further provides that if no such agreement is reached employees who may be transferred or promoted from one group to another will not acquire seniority in the group to which transferred or promoted. Rule 16 (Preservation of Rates) lends further support to the concept that the establishment of Groups in Rule 1 does not absolutely prohibit the combination of work of the various Groups. Finally, it is noted that in Award 6830 of the 3rd Division National Railroad Adjustment Board involving these same parties a regularly assigned Store Helper a Group 2 employee claimed the rate of a Section Stockman a Group 1 employee when required to perform the duties of the higher rated position. This would appear to be an implicit recognition by the employees that there was no impropriety in requiring an employee in one Group to perform services normally performed by an employee in another group but simply questioned the correctness of the rate.

In the instant case it is shown that it has been part of the yard clerks' regular duties to meet the two trains in order to receive bills for cars set out and deliver bills for cars to be picked up and apparently no claim is made by the employees that this was improper. There was no messenger assigned at the time when it became necessary to deliver and receive the mail. Under the circumstances for reasons set forth in the preceding paragraph of these Findings we find no basis for holding that the Agreement was violated.

AWARD

Claim (1), (2) and (3) denied.

/s/ Francis J. Robertson
Chairman

/s/ E. J. Hoffman
Employee Member

/s/ T. S. Woods
Carrier Member

Dated at Baltimore, Maryland this
26th day of August, 1959.