

NATIONAL RAILROAD ADJUSTMENT BOARD

Third Division

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS, FREIGHT
HANDLERS, EXPRESS AND STATION EMPLOYES**

BOSTON AND MAINE RAILROAD

DISPUTE.—"Alleged violation of rules in connection with changes in classification, hours of service and rates of pay of baggage force at Greenfield, Mass., and claim that because of said violations the classification, hours of service, and rates of pay be restored as of August 24, 1934, as shown in Exhibit #1, and the employees compensated for the difference between what they have received and what they would have received had the changes referred to, Exhibits #1 to #6, inclusive, not been made and in addition thereto time be computed and paid for on a continuous basis at overtime rate for such of the employees who were worked intermittently in violation of Rule 48 of the agreement between the parties effective July 15, 1925, subsequent to August 24, 1934."

FINDINGS.—The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier and the employees involved in this dispute are respectively carriers and employes within the meaning of the Railway Labor Act, as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

The parties to said dispute were given due notice of hearing thereon.

The following statement of facts is jointly certified by the parties, and the Third Division so finds:

"Prior to August 24, 1934, the six baggageroom employees at Greenfield, Mass., were classified and worked as shown in Exhibit #1.

"Effective August 24, 1934, the lineup was changed as outlined in notice to all concerned issued by Agent, August 21, 1934, attached as Exhibit #2.

"A further change was made August 25 as shown in Superintendent's letter of that date attached as Exhibit #3.

"Effective September 28, 1934, the assignments were again changed as shown in Exhibit #4 attached.

"Effective September 30, 1934, the assignments were again changed as shown in Exhibit #5 attached.

"Exhibit #6 shows how the six baggageroom employees were classified, rated and worked after the final change was made effective September 30, 1934.

"The positions involved in Exhibits 1 to 6, inclusive, have been numbered for the purpose of facilitating reference.

"Exhibit #7 is the notice issued by the Agent, September 27, 1934, to the Ticket Office force at Greenfield, instructing them that effective Friday, September 28, 1934, they will be obliged to check any baggage which is offered for checking at various times through the day when there will be no baggagemaster on duty.

"Exhibit #8 is a copy of the notice posted on the baggageroom door at Greenfield, Mass., October 3, 1934, for the information of the public.

"Exhibit #9, sheets a and b show times at which all passenger trains are due to arrive and/or depart from Greenfield, Mass., under timetable which was in effect from August 24, 1934, to September 27, 1934, inclusive, and from September 30, 1934, to time of this submission."

(Exhibits Nos. 1 to 9, inclusive, are appended to and made part of this Award.)

An agreement bearing effective date of July 15, 1925, exists between the parties, and employes cite and rely upon rules 48, 49, 57, and 66 thereof, reading:

"**RULE 48. Intermittent Service.**—Where service is intermittent, eight (8) hours' actual time on duty within a spread of twelve (12) hours shall constitute a day's work. Employes filling such positions shall be paid overtime for all time actually on duty or held for duty in excess of eight (8) hours from the time required to report for duty to the time of release within twelve (12) consecutive hours and also for all time in excess of twelve (12) consecutive hours computed continuously from the time first required to report until final release. Time shall be counted as continuous service in all cases where the interval of release from duty does not exceed one (1) hour.

"Exceptions to the foregoing paragraph shall be made for individual positions when agreed to between the management and duly accredited representatives of the employes. For such excepted positions the foregoing paragraph shall not apply.

"This rule shall not be construed as authorizing the working of split tricks where continuous service is required.

"Intermittent service is understood to mean service of a character where during the hours of assignment there is no work to be performed for periods of more than one (1) hour's duration and service of the employes cannot otherwise be utilized.

"Employes covered by this rule will be paid not less than eight (8) hours within a spread of twelve (12) consecutive hours."

"**RULE 49. Weekly Assignment.**—Employees, except those who are paid on an hourly basis enumerated in Section 4 of Rule 1, who have regular positions and are a part of the regular force and who do not lay off of their own accord will not be paid less than six (6) days per week, excepting that this number may be reduced in a week in which holidays occur by the number of such holidays.

"**NOTE.**—Nothing herein shall be construed as changing practice of working certain employees about stations part time and paying them for time worked or preventing the excepting of certain employees that may be mutually agreed upon between the management and the duly accredited representatives of the employees.

"**RULE 57. Overtime.**—Except as otherwise provided in these rules, time in excess of eight (8) hours, exclusive of meal period on any day, will be considered overtime and paid on the actual minute basis at the rate of time and one-half.

"The provisions of this rule will not apply where employees alternate between shifts for their own convenience or due to seniority changes.

"The provisions of this rule will not apply to spare employees who may cover all or a part of two assignments in a 24-hour period.

"**RULE 66. Change in Title or Rate.**—Established positions shall not be discontinued and new ones created under a different title covering relatively the same class of work for the purpose of reducing the rate of pay or evading the application of these rules."

The Carrier cites from said agreement and relies upon Exception (a) to Scope Rule 1, reading in part:

"These rules shall not apply * * * individuals where amounts of less than thirty dollars (\$30.00) per month are paid for special services which take only a portion of their time from outside employment or business."

The right of the Carrier to abolish a position, or positions, is confirmed and its right to establish intermittent service at any point, under the provisions of Rule 48, is also confirmed, provided service is not performed by other employees during the intervals of release of those assigned under Rule 48, Intermittent Service. Baggage service was assigned to be performed by other employes (ticket agents and janitors) during intervals of release of those assigned under Rule 48, Intermittent Service, and, therefore, the baggage service at Greenfield, Mass., was not intermittent within the meaning of Rule 48.

Classification.—The classification of positions Nos. 1, 2, and 7, was not changed and is not involved.

Position No. 3 shall be classified as baggageman.

Position No. 6 shall be classified as baggageman, August 25 to September 29, 1934, both inclusive, and the question of classification on and after September 30, 1934, is remanded to the parties.

Restoration of Hours of Service as of August 24, 1934 (Exhibit 1). This is a matter for Carrier's determination, subject to rules of agreement between parties.

Rates of Pay.—The rates of pay for positions Nos. 1, 2, and 7 were not changed and are not involved.

Carrier is agreeable to rating position No. 3 at \$4.09 per day and position No. 6 at 53¢ per hour.

Compensation for difference in Earnings is due, as follows:

Position No. 1, under Rule 57, retroactive to September 28, 1934.

Positions Nos. 2 and 7, nothing due.

Position No. 3, under Rule 57, at baggageman's rate, retroactive to August 24, 1934.

Position No. 6, under Rule 57, at baggageman's rate, August 24, 1934, to September 29, 1934, inclusive.

Positions Nos. 4, 5, and 6.—The evidence is not sufficiently conclusive to determine:

(a) the proper classification, hours of service, and rates of pay for positions Nos. 4 and 5, shown on Exhibit 4.

(b) the proper classification and rate of pay for position No. 6, freight handler, shown on Exhibit 5, or that Rule 48, Intermittent Service, was properly or improperly applied to this position on and after September 30, 1934.

therefore, claims pertaining to these three positions are remanded to the parties for negotiation, in a further effort to dispose of the questions on the property.

AWARD

The classification, restoration of hours of service, rates of pay and compensation for difference in earnings for positions Nos. 1, 2, 3, 6 (as baggageman), and 7 shall be disposed of in accordance with above findings.

Claims pertaining to positions Nos. 4 and 5, and to position No. 6, subsequent to September 30, 1934, are remanded to the parties for negotiation and agreement, in accordance with above findings. If agreement is not reached, the parties, or either of them, may resubmit the same.

By Order of Third Division.

NATIONAL RAILROAD ADJUSTMENT BOARD.

Attest:

H. A. JOHNSON,
Secretary.

Dated at Chicago, Illinois, this 30th day of September 1935.

EXHIBIT No. 1

Titles, rates, duties, etc., for employes at Greenfield baggage room and freight house prior to August 24, 1934

Name	Title	Basic rate (day)	Bulletined hours	
			Week days	Sundays
1. H. Wheeler.....	Baggagemaster....	\$4. 51	6:15 a. m.-2:15 p. m.....	5:30 a. m.-12:30 p. m.
2. John Bourn.....	Baggagemaster....	4. 25	2:00 p. m.-10:00 p. m.....	2:00 p. m.-10:00 p. m.
3. J. Jakubowski.....	Baggagemaster....	4. 09	1:00 p. m.-10:00 p. m. (1 hr. dinner).	None.
4. J. Slachetka.....	Baggagemaster....	4. 25	3:40 a. m.-11:40 a. m.....	None.
5. M. Sullivan.....	Baggagemaster....	4. 09	1:00 p. m.-9:00 p. m.....	7:30 p. m.-9:30 p. m.
6. J. Oleoski.....	Baggagemaster....	4. 09	3:40 a. m.-11:40 a. m.....	5:00 a. m.-9:00 a. m.
7. J. F. O'Brien.....	Janitor.....	3. 72	6:00 a. m.-2:00 p. m. (1 hr. dinner).	Same.

Week Day duties prior to August 24, 1934:

H. Wheeler, 8 hours, Handling Milk, Mail, and Baggage entirely.

John Bourn, 8 hours, Handling Milk, Mail, and Baggage entirely.

J. Jakubowski, 3 hours 10 minutes, Work in Frt. House (1:00 p. m.-1:50 p. m., 2:20 p. m.-3:30 p. m., 4:20 p. m.-5:30 p. m.).

J. Jakubowski, 4 hours 50 mins., Handling Baggage and Mail.

J. Slachetka, 1 hour 15 minutes, Work in Frt. House (8:00 a. m. to 9:15 a. m.); 6 hours 45 minutes, Handling Baggage and Mail.

M. Sullivan, 3 hours 10 minutes, Work in Frt. House (1:00 p. m.-1:50 p. m., 2:20 p. m.-3:30 p. m., 4:20 p. m.-5:30 p. m.), 4 hours 50 minutes Handling Baggage and Mail.

J. Oleoski, 1 hour 50 minutes, Work in Frt. House (6:10 a. m. to 7:00 a. m., 8:00 a. m. to 9:00 a. m.), 6 hours 10 minutes handling baggage and mail.

J. O'Brien, 7 hours: 1 hr. 10 mins. handling milk, mail, and baggage, Trs. 703, 51, 52 from 8:10 a. m. to 8:35 a. m.—25 mins.; Trs. 712, 54, and 73 from 10:20 a. m. to 11:00 a. m.—40 minutes; Tr. 77, 1:35 p. m. to 1:40 p. m.—5 minutes; total 1 hour and 10 minutes; 5 hours 50 mins. janitor work at passenger station and freight office.

Sunday assignments: All men working Sunday in Baggage Room except J. F. O'Brien who does janitor work.

EXHIBIT No. 2

GREENFIELD, MASS., August 21, 1934.

All concerned:

Effective Friday, August 24, 1934, the positions of baggagemasters now held by J. Oleoski, J. Jakubowski, J. Slachetka, and M. Sullivan are abolished. Effective at the same time the hours of Baggagemasters H. Wheeler and J. Bourn are changed as shown below in positions #1 and #2, respectively:

Laborers will be assigned as shown in positions #3, #4, and #5 and #6.

Position #1: H. Wheeler.

Assigned hours:

Week days: 4:45 a. m. to 12:45 p. m.

Sundays: Same as weekdays.

Position #2: J. Bourn.

Assigned hours:

Week days: 12:45 p. m. to 9:45 p. m. (1 hr. lunch).

Sundays: 2:00 p. m. to 10:00 p. m.

Position #3: Laborer, Rate 51¢ per hour.

Assigned hours: Weekdays: 5:00 a. m. to 8:00 a. m., 9:00 a. m. to

10:45 a. m., 1:45 p. m. to 5:00 p. m.

Position #4: Laborer, Rate 51¢ per hour.

Assigned hours:

Week days: 9:20 a. m. to 11:00 a. m.; 1:45 p. m. to 4:45 p. m.; 7:00 p. m. to 9:20 p. m.

Sunday: 8:15 p. m. to 9:15 p. m.

Position #5: Laborer, Rate 51¢ per hour.

Assigned hours:

Week days: 7:20 p. m. to 9:20 p. m.

Sundays: 5:00 a. m. to 8:00 a. m.

Position #6: Laborer, Rate 51¢ per hour.

Assigned hours: Week days: 6:00 a. m. to 10:00 a. m.; 1:30 p. m. to

5:30 p. m.

(Signed) C. H. GUSTAVSON, Agent.

EXHIBIT No. 3

GREENFIELD, MASS., August 25, 1934.

MR. GUSTAVSON: Your notice to all concerned dated August 21, 1934, concerning positions of baggagemasters and assistant baggagemasters at Greenfield Baggage room, should be changed at once to conform to the following lineup:

Position 1: H. Wheeler, Baggagemaster to remain as outlined by you.

Position 2: J. Bourn, baggagemaster to remain as outlined by you.

Position 3: Asst. Baggagemaster instead of laborer, rate 51 cents per hour.

Assigned hours: Week days: 5:00 a. m. to 8:00 a. m., 9:10 a. m. to

10:55 a. m., 1:45 p. m. to 5:00 p. m.

Position 4: Abolish.

Position 5: Abolish.

Position 6: Asst. Baggage-master instead of laborer, rate 51 cents per hour.

Assigned hours: Week days: 6:00 a. m. to 10:00 a. m., 1:30 p. m. to 5:30 p. m.

You are authorized to use two laborers at the 40-cents-per-hour rate, called when and as you need them from time to time to assist with trains where the transfer may be heavy.

_____, Superintendent.

2-mlt.

C/C Mr. R. A. Babcock.

(Signed) J. A. AHERN.

EXHIBIT No. 4

Effective Friday, September 28th, the following changes will be made in the hours of the baggage-masters and laborers at Greenfield, Mass.:

Position # 1: H. Wheeler.

Assigned hours:

Week days: 4:35 a. m. to 7:45 a. m., 9:10 a. m. to 10:45 a. m., 12:15 p. m. to 12:45 p. m., 1:50 p. m. to 4:35 p. m.

Sundays: 4:45 a. m. to 12:45 p. m.

Position # 2: J. Bourn.

Assigned hours:

Week days: 1:50 p. m. to 9:50 p. m.

Sundays: 2:00 p. m. to 10:00 p. m.

Position # 3: J. Jakubowski.

Assigned hours, Week days: 4:45 a. m. to 7:45 a. m., 9:10 a. m. to 10:45 a. m., 1:50 p. m. to 4:45 p. m.

Position # 4: J. Slachetka.

Assigned hours:

Week days: 7:20 p. m. to 9:20 p. m.

Sundays: 8:15 p. m. to 9:15 p. m.

Position # 5: M. Sullivan.

Assigned hours:

Week days: 7:20 p. m. to 9:20 p. m.

Sundays: 5:00 a. m. to 8:00 a. m.

Position # 6: J. Oleoski.

Assigned hours:

Week days: 6:00 a. m. to 10:00 a. m., 1:30 p. m. to 5:30 p. m.

C. H. GUSTAVSON, Agent.

EXHIBIT No. 5

10-1-34.

Effective Sunday, Sept. 30, 1934, due to change in timetable the following changes will be made in the hours of the baggage-masters and laborers at Greenfield, Mass.

Position #1: H. Wheeler, baggage-master.

Assigned hours:

Week days: 5:30 a. m. to 8:45 a. m., 10:00 a. m. to 11:00 a. m., 12:10 p. m. to 3:55 p. m.

Sundays: 5:45 a. m. to 11:00 a. m., 12:00 M to 2:45 p. m.

Position #2: J. Bourn, baggage-master.

Assigned hours:

Week days: 2:00 p. m. to 6:35 p. m., 7:35 p. m. to 11:00 p. m.

Sundays: 2:45 p. m. to 10:45 p. m.

Position #3: J. Jakubowski, baggage-man.

Assigned hours:

Week days: 6:00 a. m. to 8:45 a. m., 10:00 a. m. to 11:00 a. m., 12:10 p. m. to 5:25 p. m.

Sundays: 6:30 a. m. to 8:30 a. m., 8:30 p. m. to 10:30 p. m.

Position #4: Laborer, J. Slachetka.

Assigned hours, Week days: 7:45 p. m. to 10:15 p. m.

Position #5: M. Sullivan:

Assigned hours, Week days: 7:45 p. m. to 10:15 p. m.

Position #6: J. Oleoski, Freight Handler.

Assigned hours, Week days: 7:00 a. m. to 11:00 a. m., 2:30 p. m. to 6:30 p. m.

(Signed) C. H. GUSTAVSON, Agent.

EXHIBIT No. 6

Titles, rates, duties, etc., for employes at Greenfield baggage room and freight house, effective Sept. 30th, 1934

Name	Title	Basic rate	Bulletined hours	
			Week days	Sundays
1. H. Wheeler.....	Baggagemaster....	\$4.51 (day).. ¹	5:30 a. m.-8:45 a. m., 10:00 a. m.-11:00 a. m., 12:10 p. m.- 3:55 p. m.	5:45 a. m.-11:00 a. m., 12:00 m.-2:45 p. m.
2. John Bourn.....	Baggagemaster....	\$4.25 (day).. ¹	2:00 p. m.-6:35 p. m., 7:35 p. m.-11:00 p. m.	2:45 p. m.-10:45 p. m.
3. J. Jakubowski.....	Baggageman.....	\$0.51 (hour).. ²	6:00 a. m.-8:45 a. m., 10:00 a. m.-11:00 a. m., 12:10 p. m.- 5:25 p. m.	6:30 ¹ a. m.-8:30 a. m., 8:30 ¹ p. m.-10:30 p. m. ¹
4. J. Slachetka.....	Laborer.....	\$0.40 (hour).. ¹	7:45 p. m.-10:15 p. m.	None.
5. M. Sullivan.....	Laborer.....	\$0.40 (hour).. ¹	7:45 p. m.-10:15 p. m.	None.
6. J. Oleoski.....	Freight handler...	\$4.00 (day).. ¹	7:00 a. m.-11:00 a. m., 2:30 p. m.-6:30 p. m.	None.
7. J. F. O'Brien.....	Janitor.....	\$3.72 (day).. ¹	7:00 a. m.-3:00 p. m. (1 hr. dinner).	7:00 a. m.-3:00 p. m. (1 hr. dinner).

¹ J. Jakubowski states he understands from agent he will receive 1 hour punitive rate each week day.

² J. Jakubowski states he understands from agent he will receive 6 hours pay in accordance with Call Rule.

Week-day duties effective September 30, 1934.

H. Wheeler, 8 hours, handling milk, mail, and baggage entirely.

John Bourn, 8 hours, handling milk, mail, and baggage entirely.

J. Jakubowski, 9 hours, handling milk, mail, and baggage entirely.

J. Slachetka, 2 hrs. 30 mins., handling milk, mail, and baggage entirely.

M. Sullivan, 2 hrs. 30 mins., handling milk, mail, and baggage entirely.

J. Oleoski,¹ 2 hrs. 35 mins., handling milk, mail, and baggage; 5 hrs. 25 mins. work in freight house.

J. F. O'Brien,² 1 hr. 5 mins., handling milk, mail, and baggage; 5 hrs. 55 mins., janitor work.

Sunday assignment: All men working Sunday in Baggage Room except J. F. O'Brien who handles mail from storage car about 30 minutes and loads Express on Tr. 67 approximately 15 minutes—balance of his time is janitor work.

EXHIBIT No. 7

GREENFIELD, MASS. September 27, 1934.

File C 455

MR. J. A. CAMPBELL, MR. L. PETTS, MR. C. WALLIN.

Effective Friday, September 28, 1934, there will be various times through the day when there will be no baggagemaster on duty.

During these periods the ticket agents will be obliged to check any baggage which is offered for checking.

Yours truly,

(Signed) C. H. GUSTAVSON, Agent.

chg-b.

EXHIBIT No. 8

NOTICE

Closed 8:45 A. M. to 10:00 A. M., 11:00 A. M. to 12:10 P. M.
Call at ticket office.

¹ Works trains 703-51 and 52, 8:05 a. m. to 8:45 a. m., 40 minutes; 712-54 and 73, 10:15 a. m. to 11:00 a. m., 45 minutes; 57 and 72, 2:35 p. m. to 3:00 p. m., 25 minutes; 717-60 and 75, 4:45 p. m. to 5:30 p. m., 45 minutes; total, 2 hours 35 minutes.

² Works trains 703 and 51, 8:10 a. m. to 8:35 a. m., 25 minutes; 712-54 and 73, 10:20 a. m. to 11:00 a. m., 40 minutes; total, 1 hr. 5 minutes.

EXHIBIT No. 9

Arrival and departure of trains—Greenfield, Mass.

TIME TABLE NO. 16, APRIL 29TH TO SEPT. 29TH, 1934

East	West	North	South
508W 5:20a.....	65S 5:24-5:45a.....	733D 1:39a X.....	732D 3:30a.....
52D 7:20-7:33a.....	51W 6:14-7:30a.....	7051S 7:17-7:26a.....	7052S 6:33-6:45a.....
54W 9:27-9:45a.....	67S 10:21-10:35a.....	703W 7:16-7:35a.....	78W 5:33-5:45a.....
56S 11:05-11:15a.....	55W 10:26-10:38a.....	73W 9:35-9:45a.....	712W 9:20-9:33a.....
60W 4:06-4:18p.....	57W 2:03-2:15p.....	77W 12:35p.....	7050S 9:47a.....
68S 4:06-4:18p.....	59D 6:22-6:25p.....	7057S 12:35p.....	716W 10:40a.....
68D 4:27-4:30p.....	61W 7:30p.....	7055S 3:24p.....	72W 2:09-2:15p.....
62D 7:32-7:57p.....	95S 8:07-8:25p.....	717W 3:49-4:00p.....	74D 4:11p.....
	97S 12:40-12:50a.....	719W 5:24p.....	728W 8:15-8:30 p.....
	63W 1:04-1:30a.....	79D 9:00-9:10p.....	7060S 8:20p.....

TIME TABLE NO. 17, SEPT. 30TH, 1934 TO APR. 27TH, 1935

East	West	North	South
508W 6:20a.....	65S 6:24-6:45a.....	733D 1:39a X.....	732D 3:30a X.....
52W 8:20-8:35a.....	51W 7:14-8:30a.....	7051S 8:17-8:26a.....	7052S 6:33-6:45a.....
64S 9:30-9:43a.....	55W 12:21-12:33p.....	703W 8:10-8:35a.....	78W 6:33-6:45a.....
64W 10:25-10:45a.....	67S 12:39-12:46p.....	73W 10:35-10:45a.....	712W 10:22-10:33a.....
506S 12:15p.....	57W 2:43-2:55p.....	7067S 1-35p.....	7050S 10:50a.....
68D 3:14-3:22p.....	59D 6:21-6:23p.....	77W 1-35p.....	720W 12:40p.....
60W 5:07-5:10p.....	61W 8:30p.....	713W 3:10p.....	72W 2:41-2:48p.....
68S 5:08-5:10p.....	95S 9:05p.....	7056S 4:26p.....	724W 4:15p.....
62D 7:49-8:14p.....	97S 2:00-2:15a.....	717W 4:49-5:00p.....	74D 5:11p.....
	63W 2:04-2:34a.....	719W 6:22p.....	728W 9:12-9:27p.....
		79D 9:59-10:10p.....	7060S 9:20p.....

W Week days.

S Sundays.

D Daily.

X Do not stop.

