

NATIONAL RAILROAD ADJUSTMENT BOARD

Third Division

Wm. H. Spencer, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS, FREIGHT
HANDLERS, EXPRESS AND STATION EMPLOYES
MISSOURI-KANSAS-TEXAS RAILROAD COMPANY**

DISPUTE.—“(a) Shall the carrier designate the meal period when advertising new positions or vacancies for bid—(b) Shall the employees be compensated for nine hours service when the meal period is not specifically and positively designated.”

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, carrier and employees 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.

As a result of a deadlock, Wm. H. Spencer was called in as Referee to sit with this Division as a member thereof.

On December 12, 1934, the carrier, over the signature of the Agent at Houston, Texas, advertised a change in the working hours of the position of the Line Desk Clerk and the Chief Yard Clerk.

“Effective December 13, the hours of Chief Yard and Line Desk Clerk will be changed from 7 a. m. until 3 p. m. to 4 p. m. until 1 a. m., with 1 hour off for lunch period.”

On the same day the position of Line Desk Clerk was advertised as follows:

“Effective December 13 the hours of line desk clerk No. 5013 at the yard office will be changed from present assignment—11 p. m. to 7 a. m.—to 1 a. m. until 10 a. m., with one hour off for lunch.”

The employees contended that under Rule 10 of the Agreement between these parties these bulletins should have expressly and specifically designated the meal period. Rule 10 provides:

“New positions or vacancies will be promptly bulletined in places accessible to all employees affected for a period of five (5) days in the seniority district where they occur. Bulletin to show location, title, hours of service, and rate of pay.”

The carrier contended that the Agreement does not require the designation of a specific meal period, relying particularly upon Rules 46, 47, 48, and 49:

“RULE 46. Unless agreed to by a majority of employees in a department or subdivision thereof, the meal period shall not be less than thirty (30) minutes, nor more than one (1) hour.”

“RULE 47. For regular operations requiring continuous hours, eight (8) consecutive hours without meal period may be assigned as constituting a day's work, in which case not to exceed twenty (20) minutes shall be allowed in which to eat, without deduction in pay, when the nature of the work permits.”

“RULE 48. When a meal period is allowed, it will be between the ending of the fourth and the beginning of the seventh hour after starting work, unless otherwise agreed upon by the employees and employer.”

“RULE 49. If the meal period is not afforded within the allowed or agreed time limit and is worked, the meal period shall be paid for at the pro rata rate and twenty (20) minutes with pay, in which to eat, shall be afforded at the first opportunity.”

The bulletins in controversy did show *hours of service* as required by Rule 10 of the Agreement between the parties in the sense that they specifically designated the beginning and ending of the service period. It may, of course, be contended, as was contended by the employees, that this rule, standing alone, requires that bulletins of positions shall show nothing but service hours. Rule 10, however, does not stand alone; it must be read in connection with Rule 48, which provides that "when a meal period is allowed, it will be between the ending of the fourth and the beginning of the seventh hour after starting work, unless otherwise agreed upon by the employees and employer." This rule permits the carrier to indicate a meal period between the ending of the fourth and beginning of the seventh hours of a service period, but does not require him specifically to designate the period.

AWARD

(a) No.

(b) No.

By Order of Third Division:

NATIONAL RAILROAD ADJUSTMENT BOARD.

Attest:

H. A. JOHNSON,
Secretary.

Dated at Chicago, Illinois, this 20th day of December 1935.