

NATIONAL RAILROAD ADJUSTMENT BOARD
Third Division

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS, FREIGHT
HANDLERS, EXPRESS AND STATION EMPLOYEES
MISSOURI PACIFIC RAILROAD COMPANY**

DISPUTE.—

"Claim of Wm. Walter, Clerk, Supply Department, North Little Rock, Ark., account violation Rule 66 and 76 of the Rules Agreement effective August 1, 1926; claim of Mr. Walter for the difference between \$4.39 per day and .37¢ per hour, July 8, 1933, to October 25, 1933, inclusive."

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

The carrier and the employe involved in this dispute are respectively carrier and employe 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.

On April 15, 1933, position of Requisition Clerk, rate \$4.39 per day, occupied by Mr. C. R. Barnett, was abolished. The position was re-established in May 1935, with the same rate of pay. Mr. Wm. Walter occupied a position in the Store Department classified as Supply Department Laborer from July 8 to October 25, both dates inclusive, 1933.

There is in evidence an agreement between the parties bearing effective date of August 1, 1926, and the petitioner cites Rules 65, 66, 68, and 76 thereof, reading:

RULE 65

"**RATING POSITIONS.—**Rule 65. Positions (not employes) shall be rated and the transfer of rates from one position to another shall not be permitted."

RULE 66

"**PRESERVATION OF RATES.—**RULE 66. Employes temporarily or permanently assigned to higher rated positions shall receive the higher rates while occupying such positions; employes temporarily assigned to lower rated positions shall not have their rates reduced.

"A 'temporary assignment' contemplates the fulfillment of the duties and responsibilities of the position during the time occupied, whether the regular occupant of the position is absent or whether the temporary assignee does the work irrespective of the presence of the regular employe. Assisting a higher rated employe, due to a temporary increase in the volume of work, does not constitute a temporary assignment."

RULE 68

"**NEW POSITIONS.—**RULE 68. The wages for new positions shall be in conformity with the wages for positions of similar kind or class in the seniority district where created."

RULE 76

"RATES.—RULE 76. 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."

It is claimed by the petitioner that effective July 8, 1933, the duties previously performed on the position of Requisition Clerk were assigned to Wm. Walter, then classified as Store Department Laborer, and that Mr. Walter continued to perform such duties until October 26, 1933. No claim was filed in Mr. Walter's behalf, however, until March 18, 1934, at which time he was employed in the Supply Department at St. Louis.

It is contended by the Carrier that Mr. Walter did not perform the duties of Requisition Clerk during the period in question.

The Third Division finds that the evidence submitted does not sustain the claim.

AWARD

Claim denied.

By Order of Third Division:

NATIONAL RAILROAD ADJUSTMENT BOARD.

Attest:

H. A. JOHNSON, *Secretary*.

Dated at Chicago, Illinois, this 13th day of March 1936.