

NATIONAL RAILROAD ADJUSTMENT BOARD

Third Division

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS, FREIGHT
HANDLERS, EXPRESS AND STATION EMPLOYES
ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY**

DISPUTE.—

"(a) Claim for difference between rate paid \$5.05 per day and rate of \$6.05 per day for clerical position, the title of which was changed from demurrage clerk to report clerk July 21, 1932, occupied by Photus Grady, assigned the East Thomas territory at Birmingham, Ala.

"(b) Claim for difference between rate paid \$5.05 per day and rate of \$6.05 per day for clerical position, the title of which was changed from demurrage clerk to report clerk July 21, 1932, occupied by W. T. Souder, assigned Powell Team Track territory at Birmingham, Ala."

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.

There existed two positions of demurrage clerks at Birmingham, Alabama. Each paid a rate of \$6.05 per day. Effective July 21, 1932, these two positions were discontinued and two positions created at rate of \$4.55 per day. Effective July 30, 1932, bulletins were issued creating two new positions in place of the two positions with rate of \$4.55 per day, with title of report clerks, rate \$5.05 per day.

The employees contend the present positions with title of report clerk, rate \$5.05 per day, are performing relatively the same class of work as the former positions of demurrage clerk, rated at \$6.05 per day.

The carrier contends that when the two positions of demurrage clerks were discontinued, they created two new positions of yard clerks at rate of \$4.55 per day. On complaint of Local Chairman, Clerk's Organization, the title and rate on the two new positions established, were changed to report clerks, rate \$5.05 per day, effective with the date they were established.

An agreement bearing effective date September 15, 1924, exists between the parties and employees cite Rules 54 and 83 thereof in support of claim. These rules read:

RULE 54

"Positions (not employees) shall be rated and the transfer of rates from one position to another shall not be permitted."

RULE 83

"Established positions shall not be discontinued and new ones created under same or different titles covering relatively the same class of work serving the purpose of reducing the rate of pay or evading the application of these rules."

Evidence shows that correction was made in the original classification and rate of these two positions on complaint of and concurred in by the Local Chairman, and while this Division recognizes that local officials are not authorized to place binding interpretation on schedule agreements, it is found that the preponderating evidence shows these positions are properly classified and rated as report clerks.

AWARD

Claim denied.

By Order of Third Division :

NATIONAL RAILROAD ADJUSTMENT BOARD.

Attest :

H. A. JOHNSON, *Secretary*.

Dated Chicago, Illinois, this 31st day of March 1936.