

NATIONAL RAILROAD ADJUSTMENT BOARD
Third Division

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS, FREIGHT
HANDLERS, EXPRESS AND STATION EMPLOYEES
THE COLORADO AND SOUTHERN RAILWAY COMPANY**

DISPUTE.—

"Claim of N. R. Heald, formerly Chief Clerk to Roadmaster, whose position was discontinued August 5, 1932, and position of Maintenance of Way Clerk created; makes claim for old rate of pay of Chief Clerk."

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

The Carrier and the Employee involved in this dispute are respectively Carrier and Employee 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 parties jointly certified the following statement of facts and the Third Division so finds:

"Position of Chief Clerk to Roadmaster in office of Superintendent at Denver, Colorado, was discontinued August 5, 1932. This position carried a rate of \$5.41 per day. Effective same date a new position was created at a rate of \$4.89½ per day known as 'Maintenance of Way Clerk.'

"Mr. N. R. Heald was assigned to this newly created position."

There is in evidence an agreement between the parties, bearing effective date of July 1st, 1924, and the petitioner cites and relies upon the following rules in support of claim:

"RULE 52

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

"RULE 53—PRESERVATION OF RATES ON ASSIGNMENTS

"Employees temporarily or permanently assigned to higher rated positions shall receive the higher rates while occupying such positions; employees 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 employee. Assisting a higher rated employee due to a temporary increase in the volume of work does not constitute a temporary assignment."

"RULE 55

"New Positions.—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. If no position of similar kind or class exists in the seniority district where created, comparison shall be made with positions in other seniority districts."

"RULE 63

"Rates.—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 Petitioner also represents that clerical rates of pay in Superintendent's office, Northern Division, are higher than rates paid similar positions in Superintendent's office, Southern Division, and the existing differential should have been considered when position of Maintenance of Way Clerk, Northern Division, was created.

The Carrier represents that, due to decline in business and reorganization and reduction of Maintenance of Way forces, there remained in the Road Master's office only 1 clerk (Chief Clerk) with no one to supervise. The position of Chief Clerk to Road Master was abolished and position of "Maintenance of Way Clerk" was created. This clerk and his work were moved to Superintendent's office and placed under the supervision of the Chief Clerk to the Superintendent.

That the class of work performed by the Maintenance of Way Clerk was not relatively the same as that performed by the Chief Clerk and, therefore, Rule 63 was not violated.

Also, that the rate of \$4.89½ per day applied to position of Maintenance of Way Clerk, Northern Division, is similar to rate paid a like position on the Southern Division and, therefore, the provisions of Rule 55 were complied with.

The Third Division finds that subsequent to August 5, 1932, the occupant of the position classified as Maintenance of Way Clerk performed relatively the same class of work as the occupant of the position classified as Chief Clerk to Roadmaster prior to August 5, 1932; further, comparison of rates paid to clerical forces in the Superintendent's office, Northern Division, with those paid clerical forces Southern Division show differentials to exist in favor of such forces on the Northern Division and that such differential was not applied in the instant case, in fixing a rate for the position of Maintenance of Way Clerk, Northern Division.

AWARD

Claim sustained, effective with date of this award.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: H. A. JOHNSON
Secretary

Dated at Chicago, Illinois, this 2nd day of October, 1936.