

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
**Third Division**

**PARTIES TO DISPUTE:**

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS, FREIGHT  
HANDLERS, EXPRESS AND STATION EMPLOYES  
INTERNATIONAL-GREAT NORTHERN RAILROAD COMPANY**

**STATEMENT OF CLAIM.—**

"Request of employees that truckers, breakouts, stevedores and coopers, hereinafter referred to as freight handlers, at the Houston freight station be assigned eight (8) hours within a spread of not to exceed nine (9) hours, and that they be paid at the rate of time and one-half on the actual minute basis for all time in excess of eight (8) hours, exclusive of a meal period of not to exceed one (1) hour, from the time first required to report for duty until the time of final release."

**STATEMENT OF FACTS.—**The regular force at Houston freight house consists of about fifteen (15) men divided into three gangs. One gang works from 8:30 a. m. to 12:30 p. m. and from 2:30 p. m. to 6:30 p. m. The other two gangs work from 9:30 a. m. to 6:30 p. m. with a meal period of one hour.

An agreement bearing effective date of December 1, 1926, is in evidence, and the following rule thereof is cited:

**"INTERMITTENT SERVICE**

**"RULE 46**

"Where service is intermittent, eight (8) hours' actual time on duty within a spread of twelve (12) hours shall constitute a day's work. Employees 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 employees. 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 employees cannot otherwise be utilized.

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

**POSITION OF EMPLOYEES.—**Employees contend that it is not proper to work this one gang in question on an intermittent service basis under Rule 46, and that an agreement reached with the carrier on October 15, 1935 permitting such practice at Houston freight house was cancelled as of January 10, 1936.

**POSITION OF CARRIER.—**Carrier contends that they had so worked this gang over a period of time and that even though the employees had served notice

of cancellation of the temporary agreement, there was a verbal understanding at time of negotiation of the original agreement that such practice was permissible at Houston freight house.

OPINION OF BOARD.—The question before the Board is whether it is permissible under Rule 46 to work one of the three gangs from 8:30 A. M. to 12:30 P. M. and from 2:30 to 6:30 P. M., while other gangs are performing this work through the period of intermission, or if this gang should be worked eight hours within a spread of not to exceed nine hours. The evidence sustains the position of the employees that this particular assignment is not permissible under Rule 46, and likewise that the supplemental agreement permitting such assignment was properly cancelled. The evidence is conflicting, however, as to facts in connection with the carrier's contention relative to understanding had at time the original agreement was negotiated.

FINDINGS.—The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the evidence, under facts relating to this dispute, supports the contention of the employees that the assignment, 8:30 A. M. to 12:30 P. M., and from 2:30 to 6:30 P. M. is improper; but in view of the conflicting statements, as indicated in the opinion herein, change should be made effective with date of this award.

#### AWARD

Claim sustained on the assignment in question effective with the date of this award.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest: H. A. JOHNSON  
Secretary

Dated at Chicago, Illinois, this 9th day of March, 1937.