

NATIONAL RAILROAD ADJUSTMENT BOARD

Third Division

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS, FREIGHT
HANDLERS, EXPRESS AND STATION EMPLOYES**

MIDLAND VALLEY RAILROAD COMPANY

STATEMENT OF CLAIM.—

"Claim of D. O. Mikels, yard clerk, Muskogee, Oklahoma, for a minimum of eight (8) hours' pay, six days per week, except in a week in which holidays occur, effective April 22, 1935, and for each subsequent date on which he has been compensated less than a full eight (8) hours per day and six (6) days per week."

STATEMENT OF FACTS.—This case is resubmitted to the Board under Paragraph (b), Award 272, Docket CL-276. The facts are related in Award 272, and need no repeating here.

At the oral hearing before the Board, May 12, 1937, the petitioner stipulated that the claim herein ran only for the period May 22, 1935, to September 10, 1935, both dates inclusive.

OPINION OF BOARD.—The evidence shows that during the period involved Mr. Mikels was not regularly assigned. On numerous occasions during said period he was used to relieve regularly assigned employees who laid off account sickness or for other personal reasons, and on some few occasions he was used for a full 8-hour period, and, further, on certain other days he was used on an exclusive call basis. On some of the days he was used on an exclusive call basis he was called twice, and for each of such calls was allowed a minimum of three hours.

Under the particular facts and circumstances existing in this case, the Board is of the opinion that Mr. Mikels should be allowed, for the period May 22, 1935, to September 10, 1935, both inclusive, 8 hours' pay for each of the dates on which he was used on an exclusive call basis, regardless of whether there was more than one call on such dates, not including the dates on which he relieved a regularly assigned employee, or on the dates he was used for a full 8-hour period and for which service he has been correctly compensated. Adjustment in his pay should be made for the particular days on which he was used exclusively on a call basis, May 22, 1935, to September 10, 1935, both inclusive, deducting from the 8-hour allowance such payments as have already been made for the calls on those days.

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 employee involved in this dispute are respectively carrier and employee 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 claim for 8 hours for each call on days that the claimant was used to relieve a regularly assigned employee, and on days when he was used for a full 8-hour period and for which he was allowed 8 hours' pay, should be denied, and that on days when he was used on an exclusive call basis he should be allowed 8 hours' pay regardless of whether he was called for more than one tour of duty on such dates, deducting therefrom such allowances as have already been made for such dates.

AWARD

- (a) Claim sustained to the extent indicated in the above finding.
- (b) This award is based upon the particular facts existing in this case, and does not establish a precedent for the future application of the current agreement.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: H. A. JOHNSON
Secretary

Dated at Chicago, Illinois, this 22nd day of June 1937.