

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

PARTIES TO DISPUTE:

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

**CHICAGO, SOUTH SHORE AND SOUTH BEND
RAILROAD COMPANY**

STATEMENT OF CLAIM: "Claim of R. W. Downey, Ticket-Freight Clerk, East Chicago, Ind., and other incumbents of that position, for the difference between \$4.41 per day and \$4.71 per day from March 26, 1936, to April 30, 1936, inclusive, account rate reduced from \$4.71 to \$4.41 per day in conflict with rules of Clerks' Agreement."

STATEMENT OF FACTS: The employees stated the facts to be:

"Prior to March 26, 1936, the Carrier maintained a position classified on its payrolls as 'Ticket Agent,' at East Chicago, Ind. This position and the then incumbent, Mr. L. E. Keefer, were included in and covered by the Clerks' Agreement.

"A rate of pay of \$4.71 per day had been established by agreement for said position and such was the regularly established and agreed upon rate March 26, 1936.

"The duties and responsibilities assigned to and required of the incumbent of said position were:

- Selling Tickets, both local and interline for 35 trains daily;
- Receive, bill and forward express shipments;
- Render all reports and accounts covering operation of passenger station;
- Give information to patrons and public, regarding passenger service;
- Sell candy, cigars, etc., at Company's news stand.

"Effective March 26, 1936, the Carrier nominally abolished the classification of Ticket Agent and the rate of \$4.71 and concurrent therewith established the classification of Ticket Freight Clerk with rate of \$4.41 per day. The duties of the position of Ticket Agent remained to be performed to the same extent as previous to March 26. Such duties continued to be assigned to and performed by the Ticket-Freight Clerk.

"In addition to the performance of the Passenger Station duties hereinbefore stipulated, the incumbent of this position was required to perform some freight station work as time permitted.

urban electric railway and the same is not operated as a part of a general railroad system of transportation and, as such, is not subject to the provisions of the Railway Labor Act, and, accordingly, the National Railroad Adjustment Board has no jurisdiction of these proceedings.

This claim is stated in said notice to be for the difference between \$4.41 per day and \$4.71 per day from March 26, 1936, to April 30, 1936, inclusive, for the wages of Ticket-Freight Clerks at East Chicago, Indiana. It is claimed that the rate was reduced from \$4.71 to \$4.41 per day in conflict with the rules of the Clerks' Agreement.

Previous to the time the change was made, the job of ticket agent at East Chicago, Indiana, carried the rate of \$4.71 per day of nine hours, and the job of ticket clerk carried the rate of \$4.12 per day of nine hours. These jobs were abolished and two new jobs were created as Freight-Ticket Clerks, each of the two new jobs carrying the rate of \$4.41 per day of eight hours. The duties and responsibilities of the new jobs are not the same as those of the positions abolished. The old jobs carried the duties and responsibilities of ticket agent and the new jobs do not carry the duties and responsibilities of ticket agent, those duties and responsibilities now being imposed upon and performed by the supervising agent and officer in the East Chicago ticket office. On May 1, 1936, there was a wage increase and this claim is made up to April 30, 1936. The duties of the two Freight-Ticket Clerks at East Chicago were the same as those at Hegewisch, Illinois, which positions were abolished at the time the freight clerical work was transferred to the East Chicago station. The established rate for the Freight-Ticket Clerks at Hegewisch was \$4.41 per day of eight hours and this rate of \$4.41 per day for an eight-hour day was applied to the new positions of Freight-Ticket Clerks at East Chicago.

The claimant impliedly concedes that its position is wrong by accepting the rate of \$4.41 per day of eight hours for the Freight-Ticket Clerk position established in place of a ticket clerk, which had carried the rate of \$4.12 per day of nine hours.

No provision of the Clerks' Agreement was violated by this change. Rule 36 of the Clerks' Agreement was not violated by this change as the new positions created did not cover relatively the same class of work and the change was not made for the purpose of reducing the rate of pay or evading the application of the rules, but was a bona fide change and the creation of new positions and the wage paid were in conformity with the established wages for such positions and not in violation of Rule 36 of the Clerks' Agreement.

OPINION OF BOARD: The evidence shows that on February 14, 1936, the Interstate Commerce Commission, in its Docket No. 8, found that the carrier here involved is subject to the provisions of the Railway Labor Act, as amended June 21, 1934. Therefore, this Division of the Adjustment Board has jurisdiction over the dispute.

The record shows that claimant Downey, during the period involved, performed relatively the same class of work as he performed prior to March 26, 1936, at a rate of \$4.71 per day. Under such conditions, reducing the rate of pay for the position was in violation of the provisions of Rule 36, and the claim should be sustained.

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 provisions of Rule 36 were not complied with.

AWARD

Claim is sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson,
Secretary.

Dated at Chicago, Illinois, this 30th day of September, 1937.