

Award No. 640
Docket No. CL-653

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Frank M. Swacker, Referee

PARTIES TO DISPUTE:

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

**THE CHICAGO, ROCK ISLAND AND PACIFIC
RAILWAY COMPANY**

(Frank O. Lowden, James E. Gorman, Joseph B. Fleming, Trustees)

STATEMENT OF CLAIM: "Claim for monthly allowance, effective September 1, 1937, of \$15 over regular hourly rate for employe assigned to operate steam and electric pumps at oilhouse, Silvis, Ill."

EMPLOYES' STATEMENT OF FACTS: "In the Store Department, Silvis, Ill., there exists one position classified as a material handler, rate 55½ cents per hour. This position fills all orders for oil for local consumption in the back shop, roundhouse, and Store Department, also fills all orders for the first district outside of Silvis shop, requiring the filling, loading and handling of approximately 1,000 drums per month. He supervises the unloading of all fuel oil from tank cars into five 10,000-gallon tanks. This fuel oil is unloaded by means of a steam pump, averaging about two tanks of fuel oil per week. There are located in the oilhouse five electric pumps, which are used for pumping valve oil, car oil, fuel oil, cleaning oil, and kerosene. The position devotes about seven hours per day to the handling and supervising of the operation of these pumps."

POSITION OF EMPLOYES: "Working rules agreement between the carrier and the employes, parties to this dispute, as revised and effective January 1, 1931, contains the following rule:

'RULE 65. PAY FOR OPERATING PUMPS. Where employes covered by this agreement are required to operate pumps, the following extra compensation per month will be allowed:

Steam pumps	\$15.00
Gasoline or oil	10.00
Electric	7.50
Windmills (Water Station).....	5.00

The employes contend that inasmuch as this party is required to operate and supervise a steam pump and also five electric pumps he is entitled, under the provisions of Rule 65, to an allowance, over and above his regular hourly rate of 55½ cents per hour, of \$15 per month. We ask that the Board, in its award, grant our request, effective September 1, 1937."

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The carrier's statement of facts is contained in its submission.

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prevails at some stations where the agent is receiving extra compensation for operating pumps and assigning the duties to the station force covered by this Agreement, however, not assigning the extra compensation to them. Under this rule when a station clerk or employe under these rules is assigned to operating a pump the above stipulated extra compensation will be paid to him.'

"It was clearly understood by the Organization and the Carrier representatives when negotiating the schedule that this new rule applied only to a situation which required that a water pump be operated at a station by a clerical employe who for the most part did work which had nothing to do with pumping, and there was no contention by the clerical employes, and there certainly was no thought on the part of the carrier representatives, that Rule 65 would ever be applied as is now contended by the employees.

"Incidentally, this pump is an electric pump, and even if the claim should be sustained it should be for only \$7.50 per month.

"As previously stated, the primary purpose of maintaining the position now held by Mr. Burke is to operate this pump in the filling of oil drums, and to contend now that he is entitled to a premium for doing the work for which his position was created and for which the rate of pay designated for such work is being paid, is equivalent to asking that rule be applied to a case which it was not intended to cover. We feel sure your Board will readily recognize the inconsistency of the employes' request for payment of additional compensation to an employe who is now doing the class of work for which his position was created and for which his rate of pay was established. The claim should be denied."

OPINION OF BOARD: While Rule 65 quoted hereinbefore is not limited, as contended by the carrier, to station employes or to pumping water, it is a rule of a familiar class establishing an allowance frequently called an "arbitrary" for the performance of some side duty other than the principal duty of the employe. Naturally it does not apply to one whose position is that of a pumper. It is "extra" compensation. The position in varying form has been in existence for several years, both before and since the adoption of the rule, and it has an agreed-upon compensation. It would be absurd to hold that this rule contemplates that the occupant of this position will be paid "extra compensation" for performing the service covered by his regular agreed-to compensation.

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 employe involved in this dispute are respectively carrier and employe 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

The Board finds the rule relied on inapplicable to the facts in this case.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 4th day of May, 1938.