

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**

FLORIDA EAST COAST RAILWAY
(W. R. Kenan, Jr., and S. M. Loftin, Receivers)

STATEMENT: This is a resubmission of the case covered by Award 793 of this Division, which remanded the matter for development of information indicated by that award as requisite to a proper decision of the controversy. The facts and arguments will not be repeated here, reference being made to the full statement in that respect contained in Award 793.

OPINION OF BOARD: As appears from reference to Award 793, the facts show that a railway policeman is being used at South Jacksonville yard, a part of the Bowden terminal, to make check of cars and report on Form 422 for demurrage purposes, being required to do that at 7 o'clock each morning. The point on which the case was remanded was the development of the practice on the rest of the system. This, of course, meant, and in effect so stated, in similar circumstances. The carrier shows the practice on the entire system, including blind sidings, one-man agencies, and in fact every location on the system.

It should be obvious that the work in question is not that of a railway policeman. The showing is that it is variously performed by conductors, agents, telegraphers, clerks, etc. In reality, conductors do not compile report Form 422 but rather Form 1 from which 422 can be made. This is done at blind sidings and turned in to the agency having supervision thereof. It is well settled also that throughout the country there is work which is interchangeable as between clerks and those coming under the telegraphers' schedule, which includes agents even at non-telegraph stations (see Award 615). However, at a terminal such as here involved the work is usually done by a clerk, and the only one who might have prior claim to it would be one covered by the telegraphers' schedule. That is not the case here. Under all the circumstances the yard clerk, since April 10, 1938, required to report for duty at 7:30 A. M., should have been given a call of 30 minutes at over-time rate to perform this work.

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

That neither party requested a hearing on this re-submission and none was had;

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;

The yard clerk reporting at 7:30 A. M. shall be allowed 30 minutes per day at overtime rate on a call basis, beginning with April 10, 1938, for such dates as railway police have checked South Jacksonville yard and made up Form 422.

AWARD

Claim sustained to extent indicated by Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 2nd day of August, 1939.