

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

PARTIES TO DISPUTE:

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

GULF COAST LINES

**INTERNATIONAL-GREAT NORTHERN RAILROAD
COMPANY**

SAN ANTONIO, UVALDE & GULF RAILROAD COMPANY

SUGARLAND RAILWAY COMPANY

ASHERTON & GULF RAILWAY COMPANY

(Guy A. Thompson, Trustee)

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood for payment to Trucker Cleve Figgins of 8 hours each day from January 30, 1939, to March 4, 1939, both dates inclusive."

EMPLOYEES' STATEMENT OF FACTS: "Cleve Figgins is employed as Trucker in the freight warehouse at Beaumont.

"Prior to January 30, 1939, and subsequent to March 4, 1939, this man worked and was paid a minimum of 8 hours each day.

"On January 27, 1939, Trucker Figgins was put on a short hour assignment, with assigned hours of 7 A. M. to 9 A. M. each work day. Figgins reported for work at 7 A. M. each day, and on most of the days worked in excess of his assigned hours.

"Claim was filed in behalf of Figgins on February 18, 1939, and effective March 6, 1939, the short hour assignment was discontinued but the carrier declined to pay the loss sustained by Figgins."

CARRIER'S STATEMENT OF FACTS: "During the month of February and the first part of March 1939 it was necessary, on account of business conditions, to employ an extra trucker for several hours during the early morning hours to take care of the warehouse work at Beaumont Station. Two truckers were regularly assigned but during the first two or three hours on some dates, in excess of that on others, the work was such that two truckers could not handle it, making it necessary to call in a third trucker. However, the business was such that his services were not required after the rush was over which varied from day to day."

POSITION OF EMPLOYEES: "In support of their position the employees quote the following rules:

he only worked three hours. On March 1st, he worked 7 hours; 2nd, 4 hours; 3rd, 3 hours; 4th, 4 hours. On the 5th, the work was so arranged as to eliminate the working of an extra trucker. A portion of the month of February, he began work at 7:00 A. M. and on other days at 6:00 A. M. For the service performed by Trucker Cleve Figgins from February 1st to March 4th, he was paid under Rule 47 of the current Clerks' Agreement reading as follows:

'Hourly-rated employes whose seniority entitles them to regular employment required to report at regular starting time and place for a day's work and when conditions prevent work being performed will be allowed a minimum of three (3) hours' pay at pro rata rates. If held on duty over three (3) hours, actual time so held will be paid for. If required to work any part of the time so held, and through no fault of their own are released before a full day's work is performed, will be paid not less than eight (8) hours' pay, unless they lay off of their own accord. This guarantee will not be construed to apply to those who are employed to take care of the fluctuating work that cannot be handled by regular forces.'

"Cleve Figgins was an hourly-rated employe and was employed to take care of the fluctuating work which could not be handled by the regular forces at Beaumont, therefore, under the above rule he was only entitled to be paid for such services as he rendered.

"It is the contention of the Carrier that Trucker Figgins was paid in accordance with Rule 47 and that he is not entitled to further compensation and your Honorable Board is respectfully petitioned to so rule."

There is in evidence an agreement between the parties bearing effective date of April 1, 1939.

OPINION OF BOARD: Under facts and circumstances of this particular case, it is held that Cleve Figgins was not a part of the fluctuating force at Beaumont freight warehouse.

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

That Cleve Figgins shall be compensated on the basis of eight (8) hours (Rule 45) each day he worked from January 30, 1939, to March 4, 1939, both dates inclusive.

AWARD

That Cleve Figgins shall be compensated on the basis of eight (8) hours (Rule 45) each day he worked from January 30, 1939, to March 4, 1939, both dates inclusive.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 12th day of March, 1940.