Award No. 1266
Docket No. CL-1186

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Benjamin C. Hilliard, Referee

PARTIES TO DISPUTE:

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

THE WESTERN PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: "Claim of the System Board of Adjustment, Brotherhood of Railway Clerks on The Western Pacific Railroad that John R. Rossi, Stenographer, Superintendent's Office, Sacramento, rate $5.35 per day should be paid the difference between what he has earned and what he would have earned had he been paid at the rate of Report Clerk $5.47 per day from June 13, 1938 until relieved of this work."

EMPLOYES' STATEMENT OF FACTS: "When rates of pay were set by agreement between the Western Pacific Railroad and this Brotherhood, effective January 1, 1927, the duties of Stenographer, rate $4.95 per day ($5.35 since August 1, 1937) were as follows:

'Handles the stenographic work for the train and engine timekeeper, personal record clerk, B&B Supervisor and B&B Clerk. Writes passes for the B&B Department. Types requisitions and reports. Types the enginemen's mileage report. Assists in the making of extensions on the B&B material report, Form 172, and the time and payrolls.'

"At the same time, the duties of the position of Report Clerk, rate $5.07 per day ($5.47 since August 1, 1937) were as follows:

'Prepares the 800 Report for Mr. Bruen, Mr. Quigley and Mr. DeGraff, which report reflects train movements and which is used by Mr. DeGraff for the making of distribution of fuel oil consumption. Prepares the engine hours report for the Superintendent of Motive Power. Makes analysis and statistical report for the Division Superintendent.'

"The position of Report Clerk was abolished in 1932.

"On June 13, 1938, John R. Rossi was instructed to compile the 800 Report and the engine hours report and continued to make out these reports until approximately November 1, 1938. The preparation of these reports requires approximately 2½ to 3 hours per day.

"The following rules appear in the agreement effective October 1, 1930:

RULE 6.

'An established position shall not be discontinued and a new one created under a different title covering relatively the same class of work for the purpose or with the effect of reducing the rate of pay or evading the application of these rules.'

the Clerks' Organization to appeal to your honorable Board in this dispute, we respectfully request opportunity of discussing and answering in detail, any statements made by employes in connection with this dispute and opportunity to submit evidence and arguments in connection with statements of the employes."

There is in evidence an agreement between the parties bearing effective date of October 1, 1930.

OPINION OF BOARD: The claim, the position of the parties in relation thereto and the rules of the agreement thought to have application, are fully set forth above. Briefly, in behalf of a claimant who is a stenographer in the superintendent's office at Sacramento, and whose rate of pay is $5.35 per day, it is said that for a given period his rate of pay should be $5.47 per day, for that when his rate of pay was established he was not required to prepare what is called the "800 Report," which reflects train movements used by various railroad officials or ranking employes in their control of the movement of trains and the like.

Originally, this work was done by a Report Clerk whose rate of pay was $5.47 per day. The position of Report Clerk was abolished in 1932, and the work theretofore done by that employe, including the 800 Report, was, from time to time, distributed to, and performed by, various other employes. June 13, 1938, the duty of preparing the 800 Report was assigned to claimant, a stenographer, as already stated. The parties are not in agreement as to whether this work was of higher dignity than that already being performed by the stenographer, nor is it claimed that in volume it required to exceed three hours per day of the stenographer's time, or that that work made his assignment unduly burdensome. The record does not enable us to conclude in relation to the dignity of the work mentioned, nor are we able to make a finding as to whether it constitutes a new position. The record indicates that this particular work has been performed by all manner of employes.

We are disposed to the view that the situation is controlled by the philosophy of Awards Nos. 1054, 1055, 1074 and 1143, where the cases were remanded to the parties for further negotiation.

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 the case be remanded in accordance with this opinion, and in the event the parties are unable to reach an agreement that they develop the record factually for further submission.

AWARD

Claim remanded accordingly.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

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