Award No. 1484
Docket No. CL-1440

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Paul W. Richards, Referee

PARTIES TO DISPUTE:

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

NORTHERN PACIFIC RAILWAY COMPANY

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that Mr. A. V. Smith should be allowed a day's pay for October 3, 1938, account not called and used in the office of Car Foreman at Parkwater, Washington, to make certain corrections in records of a shipment of bad order wheels, based on Rules 1, 3, 4, 5, 6, 7 and 20 of the Clerks' Schedule."

JOINT STATEMENT OF FACTS: "When defective wheels are removed from cars a record of the defects which have been found is made by the writer-up man (a carman) in a record book provided for that purpose. These wheels are shipped to a wheel shop and a copy of the record made at the point where the wheels are removed is mailed to the wheel shop. A special form is provided for this purpose. Wheels that have been removed are re-inspected at the wheel shop and if this re-inspection does not conform with what is shown on the copy of the original record that has been sent to the wheel shop, the copy of that record is returned to the point where the wheels were removed so that it may be checked against the original for transcription errors or to correct the original report to agree with the re-inspection made at the wheel shop.

"Prior to October 3, 1938, defective wheels that had been removed at Parkwater were shipped to the wheel shop at South Tacoma. The copy of the original record of some of these wheels did not show the same defects as were disclosed by the re-inspection at South Tacoma, and in conformity with the general practice the copy of the original record was returned to Parkwater. Mr. O. Humes, wrecking engineer (a carman), at Parkwater consumed approximately two hours on October 3, 1938, checking the copy of the record of these defective wheels against the original record and making the necessary corrections thereon."

POSITION OF EMPLOYES: "It is the contention of the Employes that an employe holding seniority under the Clerks' Agreement should have been used to do the work performed by Mr. Humes and that Mr. A. V. Smith should have been called for the purpose. Not having been called, he should be paid for the wage loss suffered because of failure on the part of the Carrier to call him. The rules involved in this dispute are rules Nos. 1, 3, 4, 5, 6, 7 and 20 and are quoted below for ready reference.

> 'Employes Affected—Rule 1. These rules shall govern the hours of service and working conditions of the following employes, subject to the exceptions noted below:

on one day. On the basis of your Award No. 809 the Carrier was not obligated under schedule rules to call an employe covered by the Clerks' Schedule on October 3, 1938, to perform this particular service.

"The Employes base their claim on Rules 1, 3, 4, 5, 6, 7 and 20 of the Clerks' Agreement. For the reasons above stated, these rules do not sustain the Employes' claim."

OPINION OF BOARD: In this docket a certain two hours' work is the subject of the dispute. The question is whether it was claimant's, that is, whether the right to perform it was his. In numerous awards of this Division cited by Petitioner, such as Nos. 751, 754, and 1404, the showing was that the work in dispute was within the scope of the Clerks' Agreement and was work such as had previously been performed by the claimant or other clerks. Accordingly in these awards the claim for lost pay was sustained, and the substance of the holdings was that positions or work once within the Clerks' collective bargaining agreements may not be arbitrarily taken away by being assigned to employes outside the agreement or to excepted employes.

In the instant case the aforementioned factual situation, that underlaid the cited awards, does not clearly appear. That is, in this docket the showing is that the two hours' work performed by Mr. Humes was the first instance in the history of the Car Department at Parkwater of work of this kind being done. It was work that never had been handled by a clerk. Nor is it claimed that this work had been negotiated into the Clerks' Agreements as a separate and identified position. In the absence of showing of acts or conduct of the parties constituting a recognition of this particular work as something coming under the Clerks' Agreements, what is left for consideration is the agreements themselves. If to them an all-inclusiveness of positions and work that have characteristics of clerical work should be accorded as something agreed-upon, a ground for argument would be afforded Petitioner in support of the claim. But such all-inclusiveness cannot be summarily adopted as a basis for decision without running counter to prior pronouncements of this Division to the effect that not all work clerical in character comes within the scope rule of the Clerks' schedules of agreement such as Rule 1 here involved, and to the effect that the division of work between the various Railway Labor Organizations cannot be made with mathematical precision. In several instances this Board has recognized that there is a dividing line to be drawn between the clerical work as described in scope rules such as Rule 1 in this case, and on the other hand clerical work which is peculiarly incident to other classes of work and which may be performed in service of the carrier by employes in such other classes. See Third Division Awards Nos. 806, 809, 1405, and 1418.

Under the facts in this docket the Board is of the opinion that the two hours' work in question should be viewed as peculiarly incident to the work of carmen. For although there be involved some checking that viewed separately would be deemed clerical, nevertheless there is consistency and a measure of necessity in the same craft that examines wheels and makes the records and reports of its findings and decisions respecting defects, later reviewing and correcting, if need be, their own records and decisions. In a sense they are a second time engaged in the original work that was rightfully theirs, that is, engaged in carrying that work to a correct or corrected completion, in the exercise of authority that was the carmen's, not the clerks' Upon the entire record in this case the Board is of the opinion that claimant was not wrongfully deprived of work when he was not called to perform the work that was performed by Mr. Humes, a carman.

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 employes involved in this dispute are respectively carrier and employes within the meaning of the Railroad Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That rules 1, 3, 4, 5, 6, 7, and 20 of the Clerks' Schedule when applied to the facts shown in this docket, do not appear to have been violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 26th day of June, 1941.