

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Sidney St. F. Thaxter, Referee

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 that:

"(a) The carrier is violating the Clerks' agreement by refusing to reduce all 365 day annual assignments in the San Antonio Texas Freight Warehouse to 306 day annual assignments. And

"(b) Claim that the rates of pay for all 365 day assigned positions be increased, retroactive to November 1, 1940, so that the earnings of the positions will be the same for a 306 day assignment as they were for a 365 day assignment. Also

"(c) Claim that the employes be paid an additional day's pay at the rate of time and one-half for each Sunday and holiday worked from November 1, 1940 until correct assignment and rate of pay is made effective."

There is in evidence an agreement between the parties bearing effective date of November 1, 1940.

EMPLOYES' STATEMENT OF FACTS: "The following positions in the San Antonio warehouse are assigned to work 365 days annually:

Warehouse Foreman
Asst. Warehouse Foreman
Freight handlers (3)

"Although assigned on a 365 day basis, the Warehouse Foreman does not work on Sundays and holidays.

"The freight warehouse, and the freight office is closed on Sundays and holidays in so far as the public is concerned, and no freight is either received or delivered on those days.

POSITION OF CARRIER: "The Organization has submitted the following claim ex parte to your Honorable Board with reference to the assignment of our forces in Houston, Texas, freight warehouse in which case the Carrier has outlined its position in detail:

'Claim of the System Committee of the Brotherhood that:

'(a) The carrier is violating the Clerks' Agreement by refusing to reduce all 365 day assignments in the Houston, Texas Freight Warehouse to 306 day annual assignments. And

'(b) Claim that the rates of pay for all 365 day assigned positions be increased, retroactive to November 1, 1940, so that the earnings of the positions will be the same for a 306 day assignment as they were for a 365 day assignment. Also

'(c) Claim that the employees be paid an additional day's pay at the rate of time and one-half for each Sunday and holiday worked from November 1, 1940 until correct assignments and rates of pay are made effective.'

"The position of the Carrier in the instant claim is identical to that set forth in connection with the above quoted claim regarding annual assignment in Houston, Texas, Freight Warehouse and the Carrier respectfully petitions your Honorable Board to consider the same as evidence in this case, as the two claims are similar."

OPINION OF BOARD: In so far as the interpretation of the agreement is concerned this case involves exactly the same question as was considered in Docket No. CL-1679, Award No. 1614. We there held the letter of October 13, 1940 to be a part of the agreement effective November 1, 1940, and that it required the carrier as of November 1, 1940 to reduce all 365 day assignments not necessary to the continuous operation of the carrier to 306 day assignments without a reduction in the total pay received by the employees affected.

The positions here involved are the 365 day assigned positions of employees in the San Antonio, Texas, Freight Warehouse. In view of the construction which we placed in Docket CL-1679, Award 1614, on the phrase "not necessary to the continuous operation of the carrier," we must hold that all of the assignments covered by this case should have been reduced, effective November 1, 1940, to 306 day annual assignments without any reduction of the earnings of the men employed in such positions.

For the reasons expressed in Docket CL-1679, Award 1614, we hold, however, that such employees are not entitled to time and one-half for Sundays and holidays worked since November 1, 1940 but only to the pro rata rate.

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 employees involved in this dispute are respectively carrier and employees 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 agreement of October 13, 1940 is supplemental to the current agreement; that it has the same effective date, viz., November 1, 1940 and applies to all the positions involved in this dispute, they having 365 day assignments and not being "necessary to the continuous operation of the carrier."

AWARD

Claim (a) sustained; claim (b) sustained; claim (c) sustained to this extent—that each employe be paid an additional day's pay at the pro rata rate established under claim (b) for each Sunday and holiday worked from November 1, 1940 until a correct assignment in his case shall have been made effective, less amounts actually received for regularly assigned working hours on such days.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 27th day of November, 1941.