

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Bruce Blake, Referee

PARTIES TO DISPUTE:

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

MISSOURI PACIFIC RAILROAD COMPANY

(Guy A. Thompson, Trustee)

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employes on the Missouri Pacific Railroad, that the Carrier violated the Clerks' Agreement;

1. When during the spring of 1940 (probably during April or May), concurrent with the inauguration of 'over-the-highway' trucking service in and out of Springfield, Mo. it removed work consisting of trucking freight, checking freight and delivering freight in the Springfield, Mo. Warehouse out from under the scope and operation of the clerks' agreement and assigned said work to a truck driver who is an 'outsider' holding no seniority rights under the provisions of the clerks' agreement entitling him to perform said work.

2. That the Check Clerk, rate \$4.89 per day, who is assigned hours—8:00 A.M. to 12:00 Noon—1:00 P.M. to 5:00 P.M., six (6) days per week, be compensated for a call each day (except Sundays and holidays), beginning on July 14th, 1940, on which date this dispute was formally presented to the Division Superintendent, until May 17th, 1941, both dates inclusive; and

3. That the Check Clerk, beginning with Sunday, May 18th, 1941, and including that date, be paid for a 'call' each day including Sundays and holidays, until the dispute is disposed of and the claim satisfied."

EMPLOYES' STATEMENT OF FACTS: "The Clerks' Mediation Wage Agreement (Board of Mediation Case C-337), effective November 1st, 1928, listed station force subject to the scope and operation of the clerks' agreement at Springfield, Mo. as follows:

Chief Clerk	Rate \$6.39	per day.
Cashier	Rate \$5.79	per day.
Rate Clerk	Rate \$5.49	per day.
Warehouse Foreman	Rate \$4.64	per day.
Yard Clerk	Rate \$4.39	per day.
Check Clerk	Rate \$4.49	per day.
Trucker	Rate .41%	per hour.
Porter	Rate \$1.50	per day.

outbound movement at the freight house up to 5:30 P. M. or one hour after the check clerk goes off duty.

"The occupant of this check clerk's job, for whom the General Committee of the B. of R. & S. C. F. H. E. & S. E. files a monetary claim for a 'call' each day, or \$1.85 per day retroactive to July 14, 1940, himself has never filed a claim with his immediate supervisor, the agent at Springfield, or any other officer for alleged loss of monies account not called when the over-the-road operator deposited and picked up his load at the freight house. Our rules provide that when an employe (clerk) works overtime that he must be authorized so to do by his supervisor and that he must file his claim for compensation on Form 6394 (Carrier's Exhibit 'D'). The service of this check clerk was not required. There would have been nothing for him to do if he had been called, as all the clerical work incidental to the preparation of the forms left by and picked up by the operator of the truck had been made out by station forces, either agents or clerks. There was no clerical work performed by the operator of this truck incidental to his picking up and depositing his load of freight.

"Whether or not the party in whose behalf the organization is filing a monetary claim was available for service at the time this truck unloaded and picked up its load is questionable, as the Management did not direct him to hold himself available for a call, and certainly there is no rule in the wage agreement with the Clerks' Organization on this railroad that would justify the payment of monies to one performing no service, nor to one who was not denied employment pursuant to the established rules of the wage schedule agreement.

"The Management feels that there is no justification whatsoever under any rule of the wage schedule agreement with the Clerks' Organization for your Honorable Board sustaining the claim of the petitioner and to do so would, in effect, establish a rule to govern the working conditions of our station employes represented by the B. of R. & S. C. F. H. E. & S. E., a condition of employment that the employes have not obtained through negotiation and one that the Railway Labor Act does not empower the National Railroad Adjustment Board to grant."

OPINION OF BOARD: This is a companion case to Docket CL-1702, Award 1649. What was there said, as well as what was said in Docket CL-1606, Award 1647, is equally applicable here.

The Carrier is directed to make reparation to employes affected by its violation of the agreement beginning with July 14th, 1940.

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 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 carrier has violated the agreement.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 9th day of December, 1941.