

Award No. 1690
Docket No. CL-1667

**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 hours assigned the employees at the Passenger Station at Palestine, Texas are in violation of the Clerks' Agreement. Also

(b) Claim that employees be paid at the rate of time and one-half for assigned meal period account assigned in violation of Rule 40. Also

(c) Claim that employees be paid at the rate of time and one-half for all time required to report for duty in advance of the hours specified in Rule 42, paragraph (a)."

EMPLOYEES' STATEMENT OF FACTS: "Continuous service is maintained at the Palestine passenger station where we have the following positions and assigned hours:

Ticket Clerk	4:30 A. M. to 1:30 P. M.	1 hr. meal period
Baggage Porters (3)	4:00 A. M. to 11:40 A. M.	1 hr. meal period
Baggage Clerk	8:00 A. M. to 5:00 P. M.	1 hr. meal period
Ticket Clerk	3:00 P. M. to 12:00 midnight	1 hr. meal period
Baggage Porters (2)	3:00 P. M. to 12:00 midnight	1 hr. meal period
"	3:40 P. M. to 11:20 P. M.	1 hr. meal period
Baggage Clerk	9:15 P. M. to 6:15 A. M.	1 hr. meal period

"One or more employees are on duty at all times with work being performed during the entire twenty-four hours of each day."

POSITION OF EMPLOYEES: "The employees quote the following rules in support of this claim:

office is closed and no work to be performed, therefore, regular operations do not require continuous service, and, under Rule 40, he is not assigned eight consecutive hours with meal period. He is assigned a meal period under Rule 41 (a) reading as follows:

'Rule 41. Working During Assigned Meal Period.

'(a) Except for regular operations requiring continuous hours, all positions will have an assigned meal period, which will be allowed between the ending of the fourth and the beginning of the seventh hour after starting time. Employees required to work any part of the assigned meal period will be paid for the actual time worked at the rate of time and one-half, and will be allowed not less than twenty (20) minutes without deduction in pay in which to eat.'

"Ticket Clerk assigned 3:00 P. M. to 12:00 M. N. has an assigned meal period 7:10 P. M. to 8:10 P. M. under the same conditions as the Ticket Clerk just above referred to.

"The work performed by the Ticket Clerks does not cover the 24-hour period, therefore, under Rule 42 (a), the Carrier is not required to start the shifts of the Ticket Clerks between the periods mentioned in that article.

"The Baggage Clerk assigned 8:00 A. M. to 5:00 P. M. has an assigned meal period 12:00 Noon to 1:00 P. M. and the Baggage Clerk assigned 9:15 P. M. to 6:15 A. M. has an assigned meal period 12:30 A. M. to 1:30 A. M. and are assigned a meal period as provided for in Rule 41 (a) and for the same reasons that the Ticket Clerks are assigned a meal period, as heretofore explained. The two Baggage Clerks do not perform work covering the 24-hour period, therefore, the starting time of the Baggage Clerk at 9:15 P. M. is not a violation of Rule 42 (a).

"The three Baggage Porters assigned 4:00 A. M. to 11:40 A. M. have an assigned meal period 8:00 A. M. to 9:00 A. M.

"The two Baggage Porters assigned 3:40 P. M. to 11:20 P. M. have an assigned meal period 7:40 P. M. to 8:40 P. M.

"The Baggage Porter assigned 3:00 P. M. to 12:00 M. N. has an assigned meal period 7:00 P. M. to 8:00 P. M.

"The Baggage Porters listed above are assigned a meal period as provided in Rule 41 (a), heretofore quoted, and, for the same reasons that the Ticket Clerks are assigned a meal period as heretofore explained.

"The Baggage Porters do not perform work covering the 24-hour period, therefore, the starting time of those employees is not in violation of Rule 42 (a).

"The Carrier has no record of any time claim presented by any of the employees assigned to positions listed in this case, or complaint as to their working conditions.

"It is the contention of the Carrier that the assignment of the employees in the Ticket Office and Baggage Office at Palestine is not in violation of the Agreement with the Clerks' Organization and your Honorable Board is respectfully petitioned to so rule."

OPINION OF BOARD: In so far as Rule 40 is concerned, we concur in the interpretation placed on it in Award 1590, and claim (b) must therefore be denied.

Rule 42 of the agreement effective November 1, 1940, with which we are here concerned, reads as follows:

"Rule 42. Starting Time of Assignments.

"(a) All assignments will have a fixed starting time. Where work is performed covering the 24 hour period, the starting time of each

shift will be between the hours of five (5) and eight (8) A. M., two (2) and four (4) P. M., and ten (10) P. M. and midnight.

“(b) In no event may the starting or ending time of any assignment be between the hours of twelve (12) midnight and five (5) A. M. except by agreement.

“(c) Where only one employe covered by this agreement is employed such employe may be assigned to begin and end his tour of duty at any time.”

No distinction appears between this case and that disposed of by Award 1641. At the Passenger Station at Palestine, Texas, “work is performed during the 24 hour period.” The rules here involved are the same as in Award 1641.

We concur in the construction of Rule 42 as set forth in Awards 1591 and 1641 and claims (a) and (c) must accordingly be sustained in so far as they relate to such rule.

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 Rule 42 of the current agreement.

AWARD

Claim (a) sustained as for violation of Rule 42.

Claim (b) denied.

Claim (c) sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 20th day of January, 1942.