

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Carl B. Stiger, 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 Employees on the Missouri Pacific Railroad Company that the Carrier violated the clerks' agreement;

1. When it assigned clerical work consisting of keeping the time and handling of payrolls of extra gangs on the Central Kansas—Colorado Division to extra gang foremen and others, employees covered by the wage agreement of another craft, and who hold no seniority rights under the clerks' agreement entitling them to perform said work, and failed and refused, and continued to refuse to assign the clerical work here involved to employees coming within the scope of the current clerks' agreement for whose benefit the agreement was written;
 - (a) Gang No. 1 in charge of Foreman, F. H. McDonald.
Gang No. 2 in charge of Foreman, R. R. Roller.
Gang No. 3 in charge of Foreman, A. Ramivez.
Gang No. 4 in charge of Foreman, L. Meek.
Gang No. 5 in charge of Foreman, J. Ashcraft.
Gang No. 6 in charge of Foreman, C. A. Hosly.
Gang No. 7 in charge of Foreman, L. R. Roller.

which gangs consisted of approximately 158 men, twenty-four of which were attached to Gang No. 7.
 - (b) Gangs No. 1, 3, 4, 5 and 6 were engaged in relaying new steel at Bushong, Kansas on January 23rd, 1941.
 - (c) Gang No. 2 working separately from other gangs laying new steel in the vicinity of Hope, Kansas. (Number of men in Gang No. 2 is included in the total of 158 stipulated herein.)
 - (d) Gang No. 7 consisting of twenty-four men (included in the total of 158 shown), worked separately unloading new material and loading released secondhand material.
2. That extra gang timekeeper positions necessary to bring about a proper application of the clerks' agreement be established at a rate commensurate with provisions of the wage agreement for this class of work, and that the senior employees listed on the western dis-

trict clerks' group one seniority roster, or the Central Kansas--Colorado Stations and Yards group one seniority roster, entitled to perform the work be assigned and compensated for wage loss sustained, less amounts earned in other employment, if any, retroactive to February 13, 1941, on which date this dispute was formally presented to the division superintendent."

EMPLOYEES' STATEMENT OF FACTS: "On February 13th, 1941, following observations made by the employees, the division chairman wrote to the division superintendent, copy attached and designated as Exhibit (a) and requested that timekeeper positions be established to perform the clerical work in lieu of extra gang foremen and/or others.

"On February 24th, 1941 the superintendent replied to the division chairman's letter of February 13th, 1941, copy attached and designated as Exhibit (b) and held that there was not a sufficient number of men on the gangs to necessitate a timekeeper, and that the assistant foremen were taking care of the work of keeping the time, etc.

"On March 6th, 1941, the general chairman progressed the dispute to the general superintendent and claim for the three senior employees on the western district seniority roster entitled to perform the work was filed and asked that they be compensated for wage loss sustained, less amounts earned in other employment, if any. Copy of the general chairman's communication to the general superintendent dated March 6th, 1941 is attached hereto and designated as Exhibit (c).

NOTE: The general chairman's request for the established of three timekeeper positions was based on the organization's calculation of the number of men needed due to the close proximity in which the employees understood the gangs were working.

"On March 16th, 1941, the general superintendent wrote to the general chairman, copy attached and designated as Exhibit (d) and sustained the decision of the division superintendent.

"On March 19th, 1941 the dispute was referred to the Chief Personnel Officer on appeal from the decision of the general superintendent, to which letter the employees attached copy of their submission to the general superintendent and invited the Chief Personnel Officer's attention to and study of Award 1295 of the Third Division of the National Railroad Adjustment Board, and in the fifth paragraph thereof said:

'We shall appreciate it if you will go over this matter thoroughly giving it the consideration it doubtless merits and advise if you are not willing to establish extra gang timekeeper positions and if you are we can meet in conference and discuss the disposition of the claims.'

"Copy of employees' letter to the Chief Personnel Officer dated March 19th, 1941 is attached hereto and designated as Exhibit (e).

"On March 24th, 1941 the Chief Personnel Officer advised, copy attached and designated as Exhibit (f),

'After I have had an opportunity to look into the matter will write you further.'

"On May 9th, 1941 the general chairman traced the chief personnel officer for a decision. Copy of this communication is attached and designated as Exhibit (g).

"On May 17th, 1941 the general chairman discussed the dispute with the chief personnel officer in conference in Mr. Roll's office. The chief personnel officer did not during these discussions indicate what his decision would be, but said he would write us later and render same.

Clerks, Freight Handlers, Express and Station Employees. It does not in any manner whatsoever give unto those classes of employees a monopoly on the work generally performed by the classes of employees so designated in the rule; in other words, they have no monopoly on clerical work. Clerical work is performed to some extent by the vast majority of railroad employees in some form or another, and certainly this rule could not be construed as forbidding a foreman in charge of an extra gang to make a pencil notation on a form of a man's name and the hours he worked during the day, which the foreman sends to the Carrier's accounting offices for preparation of payrolls and other records, all of which work in these accounting offices is handled by the clerical workers classified as such and subject to this rule (Scope—Rule 1).

Definition of Clerk. This rule is merely for the purpose of classifying employees of the specific payroll classifications named in Rule 2: Rule 1 as between those coming under groups 1, 2 or 3; in other words, if an employee with a payroll classification of the classes named in group 2 or 3 in Rule 1 performs four hours per day clerical work, he will be placed in group 1 and taken out of groups 2 or 3.

Promotion Basis—Rule 4.)	
Seniority Districts—Rule 5.)	
Vacancies—New Positions—Rule 6.)	None of these rules have the remotest
Bulletins—Rule 10.)	connection with the subject of this
New Positions—Rule 68.)	dispute.
Rates—Rule 76.)	
Date Effective—Rule 82.)	

"This entire case is an effort on the part of the employees to create a preposterous situation by making a job for a clerical worker to be paid anywhere from \$5.00 to \$6.00 per day to keep the time (pencil record) of laborers in charge of a foreman working out on the line of road on track rehabilitation work. If he was employed there would be not to exceed 10" to one-half hour's work for him to do in an eight hour period—this is illustrative of the absurdity of the Employees' request.

"There is no rule in the wage schedule agreement we have with the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees that would justify or permit the Board to sustain the Employees' petition."

OPINION OF BOARD: The facts, contentions, and principles involved in this dispute are substantially the same as in Docket CL-1656, Award 1694, which award controls the decision in this dispute.

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 no violation of the rules has been shown.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 21st day of January, 1942.