

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Ernest M. Tipton, 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, that the Carrier violated the Clerks' Agreement:

(1) When on a date between February 10, 1942 and March 27, 1942, the exact date not being available to the employees, it removed the work of

(a) Making record of car numbers and car seals removed and applied in seal book form 1365 of cars located on the team track, house track and at various other places in Wynne, Ark. yard.

out from under the scope and operation of the agreement and assigned said work to an employe not covered by the agreement and who holds no seniority rights thereunder entitling him to perform said work.

(2) That the senior clerical employe adversely affected by reason of this violation of agreement be compensated for the wage loss sustained at the rate of \$5.59 per day, less amounts earned in other employment, if any, retroactive to and inclusive of the date between February 10, 1942 and March 27, 1942, on which the Carrier removed the work out from under the scope and operation of the agreement and assigned said work to an employe holding no seniority rights under the provisions of the Clerks' Agreement. Claim to continue until the violation of agreement is corrected and/or the claim satisfied.

EMPLOYES' STATEMENT OF FACTS: The clerical station force at Wynne, Ark. subject to the scope and operation of the Clerks' Agreement at the time of Mediation Wage Case C-337, effective November 1, 1928, consisted of:

Cashier	\$5.39 per day
Ticket Clerk	4.79 " "
Ticket Clerk	4.74 " "
Yark Clerk	4.64 " "
Yard Clerk	4.89 " "
Warehouse Clerk	4.64 " "
General Clerk	4.39 " "
Station Porters (2)	2.00 " "
Truckers (3)	.36¢ per hour

handled, etc. at their station. To this doctrine this Carrier is not agreeable to voluntarily subscribe, neither does it feel that your Honorable Board will impose such a condition upon it by sustaining the Clerks' Organization's claim in this case.

The Clerks' Organization further contend in this case that it is improper for an employe, whose working conditions are subject to an agreement between the Carrier and the Organization, to do a given piece of work incidental to his functioning as an employe of his class. A trucker is employed primarily to truck freight from car to warehouse, warehouse to loading platform and vice versa. Before he can get into an inbound car the seals must be broken, removed and door opened. It would be just as logical to contend that the trucker could not open the car door as to contend that he could not remove the seal on the hasp of the door fastener. The removal of this seal and reporting its number, as well as the number of the car from which it was removed, is not clerical work in the Carrier's opinion. If it be decided otherwise by your Honorable Board, then the Carrier's position is that there is no rule of the agreement with the Clerks' Organization that gives to the Clerks a monopoly of performing all clerical work entailed in the many operations required of employees of a railroad.

Paragraph 2 of the Employees' statement of claim is that a monetary allowance be made to some unknown clerical employe. There has never been any claim from any individual clerk or other employe of the railroad presented to the Management for any alleged monetary loss sustained by reason of conditions existing at the Wynne station that formed the basis of the Employees' case. There is no rule in our agreement with the Employees that would permit of the organization filing a claim for unknown employees as they have in this instance. Even though all other contentions of the Employees in this claim presented to your Honorable Board by the Organization were sustained, then the Carrier feels that that part of the statement of claim as set forth in paragraph 2 of the statement of claim accompanying Secretary Johnson's letter of June 3, 1942 should be denied by the Board, as there has been no specific claim presented to the Carrier nor has there been any presented to the Board.

There are many contentions advanced by the Employees in this case similar, if not identical, to those advanced by them in a case identified as the Board's Docket No. CL-2016. The Carrier requests that its submission of June 5, 1942 in Docket No. 2016 be considered where applicable in the adjudication of this particular dispute.

OPINION OF BOARD: The facts in this case are not in dispute, and will not be repeated. The principle involved in this claim is similar to Docket CL-2016, covering a dispute between the same parties and involving the same position of Agent. The Carrier assigned such clerical work as making records of seals and car numbers in a seal record book to the Agent and the Cashier at Wynne, Arkansas. The petitioners admit it is proper for the Cashier to perform this work, but contend that the Agent cannot rightfully do so.

This claim is controlled by the same principle as the Board has just determined and decided in Award No. 2071, Docket No. CL-2016. The Board holds that the Carrier violated the current agreement in permitting the Agent to perform the work in question.

But as most, if not practically all, of this work was performed by the Cashier, a position under the agreement, the Board feels that no monetary award should be made in this claim. The Agent made not more than seventy-five entrees in this record book in three months. Moreover, this claim could have been incorporated in the claim of Docket No. CL-2016.

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 violated the current agreement as contended by the petitioner.

AWARD

Claim (1) sustained. Claim (2) denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 18th day of January, 1943.

DISSENT TO AWARD 2074, DOCKET CL-2062.

Dissent is expressed to this award for the reasons given in our dissent to Award 2071, Docket CL-2016, issued concurrently.

/s/ **A. H. Jones**
/s/ **R. H. Allison**
/s/ **C. C. Cook**
/s/ **R. F. Ray**
/s/ **C. P. Dugan**