

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Bruce Blake, 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 AND GULF RAILWAY COMPANY**

(Guy A. Thompson, Trustee)

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that E. C. Griffith be paid three hours' overtime on July 24th, four hours on July 26th and four hours on July 27, 1942, because of the carrier using the Statistician, employed in the Asst. General Manager's office to perform overtime work in the Superintendent's Office on those dates.

EMPLOYEES' STATEMENT OF FACTS: For many years there has been a position in the Superintendent's Office at Palestine, Texas, designated as General Clerk No. 1. Due to the volume of work another position was established and bulletined on December 24, 1941 as General Clerk No. 2.

The position of General Clerk No. 1 was held by E. C. Griffith and the position of General Clerk No. 2 was held by Chas. Bremer.

From July 24, 1942 until July 27, 1942, both dates inclusive, Mr. Bremer held the position of Statistician in the Asst. General Manager's Office. During this period there was only one position of General Clerk in the Superintendent's Office, that being General Clerk No. 1 held by Mr. Griffith.

There being only one General Clerk on the dates involved, it was necessary that overtime be worked, and, instead of using General Clerk Griffith, the carrier elected to use the Statistician from the Asst. General Manager's Office.

POSITION OF EMPLOYEES: The employees quote Paragraph (b) of Rule 45 in support of this claim:

"In working overtime before or after assigned hours, employees regularly assigned to class of work for which overtime is necessary shall be given preference; the same principle shall apply in working extra time on Sundays and holidays."

The above is very plain and easily understood. It was written into the agreement to insure that employees assigned to a class of work would be given preference in working overtime or in working extra time on Sundays

sion. Handle statistical work for Superintendent and Chief Clerk. Maintain Superintendent's running records and compile various reports originating in Superintendent's office.

The duties assigned to General Clerk No. 2 are:

Compile monthly and quarterly efficiency test records; analyze Transportation accounts; handle extra labor statements, compile and maintain statistical information as may be required.

The overtime worked by Mr. Bremer on July 24th, 25th, and 27th, was compiling quarterly efficiency test record, which duties are regularly assigned to position of General Clerk No. 2 as indicated above.

POSITION OF CARRIER: Rule 45 as contained in the current Agreement with the Clerks' Organization reads as follows:

- (a) No overtime hours will be worked except by direction of proper authority, except in cases of emergency where advanced authority is not obtainable and employees will be furnished suitable forms on which to report overtime worked.
- (b) In working overtime before or after assigned hours, employees regularly assigned to class of work for which overtime is necessary shall be given preference; the same principle shall apply in working extra time on Sundays and holidays.

Mr. Bremer, as indicated in the Carrier's Statement of Facts, was regularly assigned as General Clerk No. 2, having been called to the Assistant General Manager's office to work in an emergency due to the illness of the statistician. Mr. Bremer, although having worked three (3) days as statistician in the Assistant General Manager's office, retained his regular position as General Clerk No. 2 in Superintendent's office and after his assigned hours as General Clerk No. 2 and on Sunday, was called to work overtime to perform the duties regularly assigned to his position.

By referring to duties listed as assigned to General Clerk No. 2 in the Carrier's Statement of Facts, it will be noted that same included the compilation of monthly and quarterly efficiency tests. That work is not assigned to General Clerk No. 1, therefore, as it was necessary that overtime be worked on quarterly efficiency tests, the employee regularly assigned to that class of work was given the preference as provided for in Rule 45-(b) quoted above.

It is the contention of the Carrier that under Section (b) of Rule 45 quoted above, it was proper to call Mr. Bremer to work overtime as he was regularly assigned to the class of work for which the overtime was necessary.

Your Honorable Board is respectfully petitioned to so rule.

OPINION OF BOARD: Rule 45 (b) of the controlling agreement provides:

"In working overtime before or after assigned hours, employees **regularly assigned** to class of work for which overtime is necessary shall be given preference; the same principle shall apply in working extra time on Sundays and holidays."

Construing this rule in Awards Nos. 1630, 1631 and 2101 we held that where overtime work was required of a regularly assigned position the employee **regularly assigned** to the position had a preference right to such overtime work. So, the question here is whether Mr. Bremer was "regularly assigned" to the position General Clerk No. 2 in the Superintendent's Office on July 24th to July 27th, 1942 inclusive.

We think it is clear from the record that he was not. Beginning July 24th and through July 27th he was temporarily separated from his position as General Clerk No. 2 in the Superintendent's Office and transferred to the position of statistician in the Assistant General Manager's office. The latter position was in a different office under different supervision upon a different payroll and carried a higher rate of pay than the position of General Clerk No. 2 in the Superintendent's office. The position of General Clerk No. 2 was not "regularly assigned" during Bremer's separation from it on the days in question.

It appears that, on oral presentation of the case, the representative of the carrier conceded that Bremer would have had a preference right to any overtime work that might have been required of the position of statistician on the days he held it.

We do not think Rule 45 (b) contemplates that an employe can claim preference right to overtime upon two positions during the same period of time. It is clear to us that Bremer was not "regularly assigned" to the position of General Clerk No. 2 in the Superintendent's Office on the days in question. Consequently he had no preference right to overtime required of that position on those days. The position having been left vacant the preference right to overtime required of it fell to Griffith, who held the position of General Clerk No. 1.

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 agreement.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 19th day of April, 1943.