

Award No. 2258
Docket No. CL-2167

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

H. Nathan Swaim, 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 Carrier is violating the Clerks' Agreement at Mission, Texas, by requiring and permitting employes who are not covered by the Clerks' Agreement to perform work that is covered by Clerks' Agreement. Also.

(b) Claim that the Carrier be required to assign the work here involved to employes who hold seniority rights and work under the Clerks' Agreement.

EMPLOYES' STATEMENT OF FACTS: At the time this particular claim was filed the station force at Mission consisted of the following, with assigned hours as shown:

Agent	8:00 A. M. to 5:00 P. M.
Cashier	8:00 A. M. to 5:00 P. M.
Porter	8:00 A. M. to 5:00 P. M.
Telegrapher	8:00 A. M. to 4:00 P. M.
General Clerk	10:00 A. M. to 7:00 P. M.
Telegrapher	6:00 P. M. to 2:00 A. M.

The Cashier, General Clerk and Porter are covered by the Clerks' Agreement. The two Telegraphers are covered by the O. R. T. Agreement and the Agent is not covered by any agreement.

During the period 8:00 A. M. to 5:00 P. M. there is 25 hours and 55 minutes of work covered by the Clerks' Agreement performed as follows:

Cashier	8 hours
Porter	8 hours
General Clerk	6 hours
Agent	2 hours, 40 minutes
Telegrapher	1 hour, 15 minutes
Total	25 hours, 55 minutes

On November 25, 1940, the General Chairman of the Clerks' Organization addressed a letter to the Assistant General Manager of the Carrier, submitting claim for all losses sustained by the employes involved in or affected by the Clerks' agreement to perform clerical, office and station work at Mission, Texas.

The requirements of the service at Mission, Texas, make it necessary for the Carrier to maintain telegraphic service from 8:00 A. M. to 4:00 P. M., and 4:30 P. M. to 12:30 A. M. daily to facilitate the movement of trains and handle communication service which must be performed by the use of the telegraph or telephone. Employes designated as operator-clerks or telegrapher-clerks have been included in the agreement between this Carrier and the Order of Railroad Telegraphers over a period of many years during all of which time they have performed clerical work in connection with their telegraphic duties. As evidence of that fact, the Carrier shows its Exhibit No. 1 listing rates of pay as covered by agreement between the Gulf Coast Lines and the Order of Railroad Telegraphers effective June 1, 1926, which includes operator-clerks at Mission.

The Agent is classified as a supervisory agent; and as stated above, is not included in the agreement with any organization, and consumes approximately 30 minutes monthly compiling semi-monthly time rolls, and makes trips to Moore Field 13 miles from Mission on an average of every three days to make check at that point, consuming approximately 32 hours monthly. He does not perform any telegraphic duties. He has always been required to perform clerical work; in fact, his duties as agent require him to do so.

The first trick telegrapher-clerk, assigned 8:00 A. M. to 4:00 P. M., in addition to his telegraphic duties consumes approximately five hours daily performing clerical work. The second trick telegrapher-clerk, assigned 4:30 P. M. to 12:30 A. M., in addition to his telegraphic duties consumes approximately five hours daily performing clerical work.

POSITION OF CARRIER: The question involved in the instant case is that the Carrier is violating the Clerks' Agreement by requiring or permitting employes who are not covered by the Clerks' Agreement to perform work covered by the Clerks' Agreement and that the Carrier be required to assign the work involved to employes who hold seniority rights and work under the Clerks' Agreement. The same question was submitted to your Honorable Board by the Clerks' Organization and handled under Dockets Nos. CL-1865 to CL-1871, inclusive, the only difference being as to location. The position of the Carrier was submitted in detail to your Honorable Board in case covered by Docket CL-1869, which was used as a key case, as the principle involved in that case is the same as that involved in Dockets Nos. CL-1865, 1866, 1867, 1868, 1870 and 1871 and case covered by Docket CL-1869, having been heard before your Honorable Board on March 9, 1942, at which hearing the Carrier submitted oral argument in form of a brief in support of its position, subsequent to which time the Carrier filed with your Honorable Board its written answer to employes' rebuttal and surrebuttal briefs, the same bearing date of March 29, 1942, the members of your Honorable Board are fully informed with respect to the position of the Carrier in the case covered by Docket CL-1869 and as the principle involved in this case is the same as that involved in Docket CL-1869, the Carrier hereby requests that your Honorable Board accept the evidence submitted by it in Docket CL-1869 as evidence in the instant case, and deny the claim upon the findings in that docket: "That there has been no violation of the Agreements."

OPINION OF BOARD: This Award is controlled by the decision in Docket CL-2162, Award No. 2253, in which the essential facts were the same. The contentions and principles were there fully considered and for the reasons therein stated, this claim must be sustained.

FINDINGS: The Third Division of the Adjustment Board, 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 as stated in the claim.

AWARD

The claim is sustained as to (a) and (b).

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 10th day of August, 1943.

DISSENT TO AWARD NO. 2258, DOCKET CL-2167

The Award in this case declares it to be controlled by the decision in Award No. 2253, Docket CL-2162.

Accordingly, that which has been said in dissent to Award No. 2253 is applicable to the Opinion in the Award in the instant case, and reference thereto is made for that purpose.

(s) C. C. Cook
(s) C. P. Dugan
(s) R. F. Ray
(s) A. H. Jones
(s) R. H. Allison