

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

READING COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that the carrier violated the Clerks' Agreement:

1. When on October 1, 1941, position of Assistant Foreman was reduced from \$170.20 per month to the rate of \$154.33.
2. That the carrier now be required to restore the original rate and employees affected be compensated for all monetary loss since October 1, 1941.

EMPLOYEES' STATEMENT OF FACTS: On June 5, 1936, the Brotherhood of Railway and Steamship Clerks' Freight Handlers, Express and Station Employees were designated and authorized to represent clerical and office employees (including Telephone Operators) and station, yard and storehouse employees other than clerks, (including foremen who do not exercise supervision through sub-foremen, for the purpose of the Railway Labor Act by the National Mediation Board. (*)) Subsequently thereto, there was entered into an agreement between the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees, bearing the effective date of April 1, 1937.

In accordance with the Stipulations of Rule No. 1 of the agreement, a list of positions was agreed to, known as "Personal Office Force List No. 1." Three designations or classes of positions were agreed to on Personal Office Force List, among which certain positions were designated and referred to as asterisk (*) or star positions; the agreed upon definition covering such positions being as follows:

"When vacancy occurs on positions identified by an (*) it will be filled, without bulletin (Rule No. 35), by appointment made by the employing officer after conference with the Local Representative."

This constituted the only agreed upon exception to the rules of the agreement between the Reading Company and the Brotherhood, effective April 1st, 1937, covering (*) positions.

Prior to August 15, 1941, there was an established position of Assistant Foreman, Department No. 1, General Storehouse, Reading, Pa. This position was designated as an (*) position under the Clerical Agreement at the basic monthly rate of \$170.20.

*Underscore ours.

Under the circumstances presented in the foregoing, the Carrier holds the method of computing the monthly rate of \$154.33 was proper and correct in accordance with the general policy where "preferred" positions revert to the Agreement. Further, the rules cited by the Clerks' Brotherhood do not support the claim and there was no violation of any rules of the Agreement, therefore, the claim is without merit or justification and the Carrier requests the Board to so find and deny the claim.

OPINION OF BOARD: This claim is for the alleged violation of the Agreement by the carrier in reducing the rate of pay of Assistant Foreman from \$170.20 per month to \$154.33.

At the time the Agreement was executed it was agreed between the parties that this position should not be under the agreement until a vacancy occurred therein; that when such a vacancy occurred it was to be filled without bulletining; and that when the position was vacated it then became subject to all the rules of the Agreement except the bulletin rule, Rule 35.

Pursuant to this agreement and understanding, the position came under the provisions of the Agreement on August 16, 1941. Prior to that time the occupant of the position worked 9 hours per day, Monday to Friday, 8 hours on Saturdays and was available for Sunday work if required. For all of this work he received pay of \$170.20 per month. When the position came under the Agreement the hours were cut down to conform to Rule 2 of the Agreement but the rate was not changed by the Carrier until October 1, 1941. This was too late.

Before the position came under the Agreement, the rate and hours could have been changed by the carrier as it saw fit. When the position came under the Agreement with a rate of \$170.20 per month, that rate then became fixed and could only be changed by negotiation. The position then became a schedule position at that rate.

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 as claimed.

AWARD

The claim is sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

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