

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Edward F. Carter, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES

NORTHWESTERN PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that the carrier violated and continues to violate the agreement existing between the respective parties when

(a) On or about December 16, 1942, it created position of Cashier at San Rafael, California, at rate of \$6.78 per day, when there existed on its payrolls in the same seniority district, other positions of Cashier performing relatively the same class of work, rated at \$7.20 per day.

(b) That carrier shall now be required to rate the position of Cashier at San Rafael at \$7.20 per day.

(c) Shall make the \$7.20 per day rate effective as of the date position of Cashier was established at San Rafael, i. e., on or about December 16, 1942, and

(d) Shall compensate incumbents of the position of Cashier at San Rafael since its establishment on or about December 16, 1942, for the difference between what they earned, based on rate of \$6.78 per day, and what they would have earned based on rate of \$7.20 per day.

EMPLOYEES' STATEMENT OF FACTS: An Agreement bearing effective date of April 1, 1926, as to rules and working conditions, is in effect between the parties to this dispute; the employees involved in this instant claim are covered by that Agreement.

On December 16, 1942, the Carrier advertised for seniority choice position No. 14, Cashier, San Rafael Station, rate of pay, \$6.78 per day, the position being concurrently filled pending assignment, and thereafter continued to be filled by an employe coming within the scope of our Agreement with the Carrier, and who received and continues to receive rate of \$6.78 per day.

As a result of Arbitration Award in 1927, there was established for Cashier positions at Petaluma and Santa Rosa, located in the same seniority district as San Rafael, rate of \$5.58 per day; subsequent **general wage increases** would make a present rate of \$6.78 per day. However, some three years subsequent to the arbitration award in 1927, there was a consolidation of Northwestern Pacific Railroad and Petaluma and Santa Rosa Railway station forces at Petaluma and Santa Rosa, and at that time the rate for Cashier at Petaluma and Santa Rosa was increased 42¢ per day which, plus general wage increase of 40¢ per day in 1937 and general wage increase of 80¢ per day in 1941, produces a current rate of \$7.20 per day.

It is likewise clear that in view of the business handled at San Rafael² that the duties and responsibilities of the position of cashier at said point (if such position were established) would be substantially less than the duties and responsibilities of positions of cashier at Petaluma, Santa Rosa and Sausalito and therefore not comparable or similar. Such being the case the carrier would have been justified in establishing the agreed-upon rate of \$6.78 per day for such position.

The carrier submits that it has established:

(1) That the duties and responsibilities of the position in dispute were not the duties and responsibilities of a "cashier," and therefore the aforesaid position in dispute was erroneously classified as "cashier" and should have been properly classified as "clerk" or "clerk-collector" with a rate of \$6.45 per day.

(2) If in fact a position of cashier was established at San Rafael on December 17, 1942, a proper rate for said position would have been \$6.78 per day, the agreed-upon rate for cashiers.

CONCLUSION

The carrier asserts that it has conclusively established that the claim in this docket is entirely without basis or merit and therefore respectfully submits that it is incumbent upon the Board to deny it.

OPINION OF BOARD: On December 16, 1942, the carrier established the position of cashier at San Rafael Station and fixed the daily rate of pay at \$6.78. This rate was fixed in 1927 in accordance with an arbitration award fixing the rate of pay for cashier position at Petaluma and Santa Rosa, located in the same seniority district, at \$5.58 per day. Five years later, there was a consolidation of Northwestern Pacific Railroad and Petaluma and Santa Rosa Railway station forces at Petaluma and Santa Rosa and, as a result the daily rate of cashier positions at those points was increased to \$6.00. Subsequent general wage increases make the present daily rate \$7.20. In 1942, a cashier's position was created at Sausalito in the same seniority district and the daily rate of pay was fixed at \$7.20, even though the conditions which resulted in the first increase of 42¢ per day at Petaluma and Santa Rosa did not exist at Sausalito. It is the contention of the clerks' organization that the daily rate at San Rafael should be \$7.20 instead of \$6.78 for the reason that the position at that point was of similar kind and class to those at Petaluma, Santa Rosa and Sausalito, within the meaning of Rule 3 (e) of the current agreement. The sole question is whether the cashier positions at Petaluma, Santa Rosa and Sausalito are of similar kind and class as the position in question at San Rafael, for if they or any of them are not, the only basis for an affirmative award fails to exist.

It is the contention of the carrier that the cashier's position at San Rafael was not comparable as to kind and class with those at Petaluma and Santa Rosa. The positions at the latter two places had added duties and responsibilities resulting from the consolidation of the freight and ticket agencies of the Petaluma and Santa Rosa Railroad Company at those points. This consolidation necessitated the keeping of separate cash and accounting records for the two railroads. The record shows that the cashier's position at San Rafael also was the result of a consolidation. The record shows that in December 1942, the carrier discontinued the service on its branch line between San Rafael and Fairfax via San Anselmo and the agency at San Anselmo was abandoned. The Pacific Motor Trucking Company continued to serve the territory and its accounting and collecting work was transferred from San Anselmo to San Rafael. This brought about the establishment of

²A comparative statement of the business handled at San Rafael, Sausalito, Petaluma and Santa Rosa is shown as Exhibit G.

the cashier's position which has become the subject of this dispute. While it is true that the gross income of the San Rafael station was much less than the others, the kind and class of work appears to be much the same. While gross income is an element to be considered, yet it is not a controlling factor. Large returns often result from few transactions while a smaller income sometimes is the result of a multitude of small ones. It is altogether possible the work of the smaller would require more training and experience than the larger. We cannot say, therefore, from a comparison of station returns alone that cashiers' positions in each are or are not of the same kind or class. From an examination of the whole record, we are of the opinion that the claim that the cashiers' position at San Rafael and those at Petaluma and Santa Rosa are of the same kind and class is sufficiently established to warrant an affirmative award.

Carrier urges that the position at San Rafael was misnamed and that it is not in fact a cashier's position, but a "clerk" or "clerk-collector." This issue was not raised on the property and we feel that the carrier is estopped to raise it for the first time at this stage of the proceedings. The evidence does indicate however that a substantial part of the work of the position is that ordinarily performed by a cashier.

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 cashier's position at San Rafael is of the same kind and class as those at Petaluma and Santa Rosa and should be governed by the same rate of pay as required by Rule 3 (e) of the current agreement.

AWARD

Claim (a, b, c, and d) sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 30th day of October, 1944.