

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
SOUTHERN PACIFIC COMPANY (PACIFIC LINES)**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(a) The Carrier violated the provisions of our current Agreement when it permitted R. A. Clapes and E. R. Del Monte, regularly assigned to work 6 days per week as Correction Clerks, rate \$7.20 per day, to serve as Check Clerks, rate \$6.60 per day, at San Francisco Fourth and Berry Streets Freight Station, on Sunday, October 4, 1942.

(b) R. A. Clapes and E. R. Del Monte be compensated on time and one-half basis for the difference between what they were paid at rate of \$6.60 per day, and what they would have earned had they been paid at rate of \$7.20 per day for Sunday, October 4, 1942.

EMPLOYES' STATEMENT OF FACTS: An Agreement bearing effective date of October 1, 1940, as to rules and working conditions, is in effect between the parties to this dispute; the employees involved in this claim are covered by that Agreement.

R. A. Clapes and E. R. Del Monte, regularly assigned to work six days per week as Correction Clerks, rate \$7.20 per day, at Fourth and Berry Freight Station, San Francisco, California, did, on Sunday, October 4, 1942, serve as Check Clerks at the above named freight station, and were compensated therefor on the basis of the rate of pay of that classification, namely \$6.60 per day, instead of at the rate of their regularly assigned position of Correction Clerk, rate \$7.20 per day.

POSITION OF EMPLOYES: Rules 7 and 25 of our current Agreement with the Carrier read:

"Rule 7.

Employees temporarily or permanently assigned to higher rated positions shall receive the higher rates while occupying such positions; employees temporarily assigned to lower rated positions shall not have their rates reduced.

A 'temporary assignment' contemplates the fulfillment of the duties and responsibilities of the positions during the time occupied, whether the regular occupant of the position is absent or whether the temporary assignee does the work irrespective of the presence of the regular employee. Assisting a higher rated employee due to a temporary increase in the volume of work does not constitute a temporary assignment."

"Rule 25.

Work performed on Sundays and the following legal holidays—namely: New Year's Day, Washington's Birthday, Decoration Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas, (pro-

CONCLUSION

The carrier asserts that having established that the claim in this docket is without basis or merit, it is incumbent upon the Division to deny it.

OPINION OF BOARD: The claimants in this case held regular 6-day assignments, with Sundays off, as correction clerks with a daily rate of \$7.20. On Sunday, October 4, 1942, they were asked by the carrier to serve as check clerks on account of the press of business and a shortage of help. They voluntarily complied with the request and were paid time and one-half at the daily rate of \$6.60, it being the regular daily rate for check clerks. Claimants contend that they are entitled to pay on the basis of time and one-half at correction clerks' rate of pay. The case arises out of the same situation and is similar to the claim made in Docket CL-2650 on which Award No. 2679 is made herewith.

In that case we decided that the claimants had no preferential right to the work constituting the basis for the claim and that Rule 7 of the current agreement did not apply. Much has been said about the use of the word "assigned" in Rule 7. Claimants contend that any one who is directed by the carrier to perform work for it has been assigned to such work and that such interpretation should be given to the use of the word in Rule 7. We agree that the word could properly be so used if given a technical definition. We, however, are concerned with the meaning that the parties intended when the rule was promulgated. In view of Decision No. 6, Clerks' Board of Adjustment, the temporarily assigned work, whether to higher or lower rated positions, must refer only to the guaranteed portions of the employee's regular assignment as set forth in Rule 3. We think this is the meaning we are now obliged to adopt. If this interpretation does not conform to the views of the parties, negotiation affords the proper remedy. The same conclusion must necessarily be reached in the instant case. The work was no part of that which was guaranteed to the claimants and was work which they could not properly be required to do. It was work entirely foreign to their regularly assigned positions as correction clerks. It did not grow out of, nor was it incidental to, their regular work. Consequently, the rate of pay of these claimants while they were working as check clerks is in no way affected by the rate of pay they received on their regular assignment. The contentions of the claimants that they were entitled to time and one-half at correction clerks' pay are therefore without merit. The conclusion reached is largely controlled by the reasoning announced in Award No. 2679 which we hereby adopt by reference.

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 employees involved in this dispute are respectively carrier and employees 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 no basis for an affirmative award exists.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

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