

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Curtis G. Shake, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES
HARBOR BELT LINE RAILROAD**

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

(a) The correct present rate for Extra Car Runners is \$1.00 per hour.

(b) Rate of \$1.00 per hour be applied to Extra Car Runners effective as of August 23, 1943, the date the instant claim was submitted by this System Committee to the management.

EMPLOYES' STATEMENT OF FACTS: An agreement bearing effective date of August 16, 1935, 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.

Effective as of November 1, 1937, the following rates of pay were established for Car Runners and Check Clerks on Harbor Belt Line Railroad, Los Angeles Harbor:

	Nov. 1, 1937	Increase Sept. 1, 1941
Car Runners—Regular	\$165.20	\$185.60
Check Clerks—Regular	155.20	175.60
Check Clerks—Extra	.85 hour	.95 hour

In approximately June, 1942, carrier instituted the practice of using extra Check Clerks as extra Car Runners, paying them the Extra Check Clerk rate of 95¢ per hour.

There has existed since November, 1937, a differential of 10¢ per hour between regular and extra Check Clerks. This differential was created because of the fact that regular Check Clerks were and are guaranteed 204 hours work per month, while Extra Check Clerks were not, and are not guaranteed 8 hours work per day, nor 6 days work per week. The same conditions apply to regular Car Runners and Extra Car Runners.

POSITION OF EMPLOYES: Claim was first presented to the company by Division Chairman in letter dated November 4, 1942, as follows:

“November 4, 1942

HBL-101

Mr. L. L. Laughlin
General Manager
Harbor Belt Line Railroad
San Pedro, California

Dear Sir:

This will refer to our recent conversation held in your office on October 22, 1942, at which time I requested your consideration of the negotiation of a proper rate of pay for extra Car Runners.

Accordingly, Mr. H. A. Johnson, Secretary, Third Division of the National Railroad Adjustment Board, was notified on February 1, 1944, by Mr. Geo. M. Harrison, Grand President of the organization, of intention of the organization to file ex parte submission with the Third Division of the Board, including therein statement of claim as now presented to the Board for consideration and decision.

The Belt Line was accordingly notified on February 7, 1944, of the action taken by Mr. Harrison in his letter of February 1, 1944, and at that time was requested to file with Third Division of the Board, submission pursuant to regulations of the Board.

POSITION OF CARRIER: The position of the Belt Line with respect to the above entitled claim presented by the Clerks' organization is brief. The organization has originally requested "negotiations" relative to a rate of pay for Extra Car Runners.

These "negotiations" have never been concluded nor progressed as such by the organization.

The Belt Line has shown by inclusion of rate schedule that no rate for Extra Car Runners is now in effect, nor has there ever been a rate in effect for Extra Car Runners as the result of negotiations with the Brotherhood of Railway & Steamship Clerks, claimants herein.

We submit that the organization is entirely in error in presenting to the Board a so-called claim based upon a desire and not upon a rule.

The organization has recognized also that rate of pay for Extra Car Runners does not exist within the rate schedule of the Belt Line, as indicated in letter of August 23, 1943, set forth in carrier's Statement of Facts.

We submit further that the contention of the organization is one for further negotiations and in event such negotiations fail, the matter should be progressed through the normal channels provided by the Railway Labor Act, as amended, for final determination.

It is our position that the claim now presented by the organization is not a dispute "growing out of grievances or out of the interpretation or application of agreements concerning rates of pay, rules or working conditions . . ." within the meaning of Section 3, First, (i), of the Railway Labor Act as amended, for the reason that there is no agreed rate of pay in existence upon which the claim may be properly based.

In view of the record and the controlling facts, the Board is respectfully requested to deny the claim in full.

OPINION OF BOARD: It is apparent from the admissions contained in the petitioner's submissions that the purpose of this proceeding is to have the Board enter an award establishing a rate of pay for Extra Car Runners. The effective Agreement provides no rate for said employes and no rule is relied upon as authority for establishing such. The controversy is a proper subject for negotiation, but it is without the jurisdiction of this agency. See Awards 2202, 1634, 1586.

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; and

That this Division of the Adjustment Board does not have jurisdiction over the subject matter of the dispute involved herein.

AWARD

The claim is dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 7th day of December, 1944.