

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Edward F. Carter, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY & STEAMSHIP CLERKS
FREIGHT HANDLERS, EXPRESS AND STATION
EMPLOYEES**

**THE CHICAGO, ROCK ISLAND AND PACIFIC RAILWAY
COMPANY**

(Joseph B. Fleming and Aaron Colnon, Trustees)

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees on The Chicago, Rock Island & Pacific Railway, in behalf of H. L. Clyburn, E. J. Sartain, F. H. Penland and E. C. Slater for adjustment in rate of pay from \$203.96 per month to \$208.96 per month, effective June 11, 1944, account failure of the Carrier to comply with the provisions of Rule #69.

EMPLOYEES' STATEMENT OF FACTS: In the office of Auditor of Disbursements, General Accounting Office, Chicago, Illinois, there are four (4) positions of Shop Labor Distribution Clerks assigned a monthly rate of \$203.96.

June 11, 1944, the four (4) Shop Distribution Clerks were assigned work which in the past had been handled by the Service Card Examiners (Timekeepers) at the rate of \$208.96 per month, and on this date, June 11, 1944, these four (4) employees were instructed to perform the work of balancing the distribution with the service cards or payroll.

September 6, 1944, the following letter was addressed to Mr. J. M. Gallagher:

"Mr. J. M. Gallagher
Auditor Disbursements
Chicago, Illinois

"Dear Sir: .

"Due to the fact that work previously assigned to timekeepers has now been permanently assigned to the Shop Labor Distribution Clerks—which positions carry a lower rate of pay, we, the undersigned, hereby claim the higher rate of \$208.96, effective June 11, 1944. The work was assigned to the lower rated positions as of that date.

"(signed) H. L. Clyburn
"(signed) E. J. Sartain
"(signed) F. H. Penland
"(signed) E. C. Slater"

Chief Timekeeper, the practice was corrected and the Shop Labor Distribution Clerks were told to perform this work, which had been assigned to them following the consolidation of the Timekeeping Department in Chicago.

Because of the change in the payment for Sunday services to time and one-half rate, there was, for a period of time following that change, a greater percentage of errors made by Shop employes in reporting the distribution of their time on the M. P. 10 O. T., (Exhibit "B") and Form 1535 O. T., (Exhibit "E") cards, and this fact, coupled with the unauthorized correction of that distribution by one Service Card Examiner, is evidently what attracted the attention of the Chief Timekeeper and resulted in him developing that principally one Card Service Examiner was balancing the distribution without having that work assigned to him. In fact the work had always been assigned to the Shop Labor Distribution Clerks. When the Chief Timekeeper instructed that the work should be returned to the Shop Labor Distribution Clerks to whom it had been assigned for a number of years, the instant claim was presented. The percentage of errors made by employes in reporting distribution on M. P. 10 O. T. (Exhibit "B") and Form 1535 O. T., (Exhibit "E") has greatly reduced since June, 1944, and there is little trouble experienced with this matter presently.

To further explain the duties of the Service Card Examiners, we desire to point out to the Board that when the M. P. 10 (Exhibit "A"), M. P. 10 O. T. (Exhibit "B"), Form 1535 (Exhibit "D") and Form 1535 O. T. (Exhibit "E") are handled by the Service Card Examiners (Shop Timekeepers) it is their duty, as related to the issues of this controversy, to determine that the time and rate of pay claimed is proper and the primary method of determining that the time claim is proper is by comparing it with the impressions on the margin of the service card, which impressions have been made by the time recording clock. We want to again emphasize that never since the inauguration of the present timekeeping system following the consolidation of their Timekeeping Department at Hamilton Park has the Service Card Examiners been assigned the duty of balancing the distribution against the time paid, and by the same token, neither has the Shop Labor Distribution Clerks been relieved of the duty of balancing the distribution hours against the time paid. Any practice which may have existed to the contrary was totally unauthorized and was never assigned by this Carrier.

We respectfully submit to your Board that there was no violation of Rule 69 inasmuch as there was no change in the duties and, therefore, the claim of the employes should be denied.

OPINION OF BOARD: The record discloses that prior to 1938, Timekeepers, now classified as Service Card Examiners, performed all timekeeping and distribution work covering Mechanical Department employes. Subsequent thereto, the work was divided and assigned to Service Card Examiners present rate \$208.96 per month, and Shop Distribution Clerks, present rate \$203.96 per month. The Claimants are Shop Distribution Clerks who claim the Service Card Examiner rate because of having been required to perform the work of that position.

The controlling fact is whether it was the duty of the Service Card Examiners to perform the work of balancing the daily time cards and the distribution as to time allowed each employe, or whether such work was that of the Shop Distribution Clerks.

The Carrier contends that this work has always been assigned to the Shop Distribution Clerks and that if any of such work was performed by the Service Card Examiners, it was done without authority and contrary to instructions.

The Organization contends that the work was assigned to the Service Card Examiners and was performed by them until June 1944 when the Shop Distribution Clerks were instructed to perform the work because of an increase in the volume of work the Service Card Examiners were required to do.

We find no assignment in the record assigning the work of balancing daily time cards and the distribution as to time allowed the employe. There is ample evidence in the record to sustain a finding that Service Card Examiners were performing this work until June 1944 and that Shop Distribution Clerks were instructed by their superiors to assume this work at that time. The evidence does not bear out the assertion of the Carrier that the instructions given in June 1944 were that the Service Card Examiners should thereafter refrain from doing the work in question because it belonged to the Shop Distribution Clerks. The evidence sustains the view that on June 16, 1944, the Shop Distribution Clerks were instructed to relieve the Service Card Examiners of this work.

This being true, Claimants are entitled to be paid at the rate of \$208.96 per month from June 16, 1944 until they were or are relieved of the work of balancing the daily time cards and distribution as to time allowed each

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 Agreement was violated as alleged.

AWARD

Claim sustained in conformity with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 23rd day of July, 1946.