

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Robert G. Simmons, Referee

PARTIES TO DISPUTE:

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

**GULF COAST LINES; INTERNATIONAL-GREAT NORTHERN
RAILROAD CO.; THE ST. LOUIS, BROWNSVILLE & MEXICO
RAILWAY CO.; THE BEAUMONT, SOUR LAKE & WESTERN
RAILWAY CO.; SAN ANTONIO, UVALDE & GULF RAILROAD
CO.; THE ORANGE & NORTHWESTERN RAILROAD CO.;
IBERIA, ST. MARY & EASTERN RAILROAD CO.; SAN BENITO
& RIO GRANDE VALLEY RAILWAY CO.; NEW ORLEANS,
TEXAS & MEXICO RAILWAY CO.; NEW IBERIA & NORTHERN
RAILROAD CO.; SAN ANTONIO SOUTHERN RAILWAY CO.;
HOUSTON & BRAZOS VALLEY RAILWAY CO.; HOUSTON
NORTH SHORE RAILWAY CO.; ASHERTON & GULF RAIL-
WAY CO.; RIO GRANDE CITY RAILWAY CO.; ASPHALT BELT
RAILWAY CO.; SUGARLAND RAILWAY CO.**

(Guy A. Thompson, Trustee)

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

(a) The Carrier violated the Clerks' Agreement effective November 23, 1944, at Palestine, Texas, when it transferred the work of checking and posting switchmen's time, compiling switchmen's payrolls and handling deductions, bonds and other statements from the position of Assistant Chief Timekeeper, rate \$9.21 per day, and assigned it to position of Assistant Timekeeper No. 4, rate \$8.86 per day. Also

(b) Claim that the Carrier be required to increase the rate of Assistant Timekeeper No. 4 from \$8.86 per day to \$9.21 per day, plus any general increases, retroactive to November 23, 1944.

EMPLOYEES' STATEMENT OF FACTS: In July 1941 the Carrier created a new position of Utility Clerk in the Timekeeping Department, the duties of which were to assist the Chief Timekeeper. The Carrier applied the same rate of pay as was paid the Chief Timekeeper, but the annual assignment was not the same.

The Board further stating: "General assertions unsupported by facts are not sufficient to sustain an affirmative award."

In the light of the Findings of your Honorable Board as expressed in Awards Nos. 974, 2352, and 2353, which denied the Employees' contention and claim, it is evident that the contention and claim of the Employees in the case under consideration where, obviously, there is less basis for the claim than in the cases referred to above, should likewise be denied.

With reference to that part of the Employees' Ex Parte Statement of Claim set forth in paragraph (b) thereof reading:

"(b) Claim that the Carrier be required to increase the rate of Assistant Timekeeper No. 4 from \$8.86 per day to \$9.21 per day, plus any general increases, retroactive to November 23, 1944."
When consideration is given to the fact that:

1. The position of Assistant Timekeeper No. 4 is one of several other Assistant Timekeeping positions, all of which receive the same rate of pay and all of which positions are established solely for the purpose of keeping time for various classes of employees, including the keeping of switchmen's time and other incidental work in connection therewith;
2. The keeping of switchmen's time was performed by one of the positions of Assistant Timekeeper prior to the Assistant Chief Timekeeper temporarily taking over the work in December, 1942;
3. The keeping of time for station employees is also work properly belonging to position of Assistant Timekeeper; was performed by one of those positions prior to the Assistant Chief Timekeeper temporarily taking it over in May, 1942, and was returned to a position of Assistant Timekeeper in December, 1942, as a result of which no complaint or claim was registered by the Employees then or since, although exactly the same situation was then involved as the situation forming the basis for the present contention and claim of the Employees;
4. The Findings of your Honorable Board in Awards Nos. 974, 2352, and 2353 hereinbefore cited by the Carrier;

it is clearly evident that there is no basis for the claim "that the Carrier be required to increase the rate of Assistant Timekeeper No. 4 from \$8.86 per day to \$9.21 per day * * *." Therefore, it is the position of the Carrier that the contention of the Employees should be dismissed and the accompanying claim accordingly declined.

OPINION OF BOARD: There is no question here but that the checking of train and engine service employees is work which was assigned by bulletin to the Chief Timekeeper and Assistant Chief Timekeeper. Likewise, the bulletin describing duties of Assistant Timekeeper No. 4 did not embrace the checking of these time slips.

The Organization contends that on November 23, 1944, the work of checking the time of certain switchmen was transferred to the Assistant Timekeeper. The Organization contends that this constitutes a violation of the rules regarding assignments, bulletins, preservation of rates, and the rating of positions. The Carrier denies that this assignment was made and asserts that the work was then and is now performed by either the Chief Timekeeper or Assistant Chief Timekeeper.

At the outset we are confronted with a fact question: Was the work assigned as the Organization contends? We find in the record no supporting data, bulletin or other evidence of the assignment of the work. More particularly, there is no showing that any occupant of the position of Assistant Timekeeper No. 4 ever did this work. We have only an assertion and a denial.

Rule 50 provides:

"Employees temporarily or permanently assigned to higher rated positions **or work** shall receive the higher rates for the full **day** while occupying such position **or performing such work** * * *." (Emphasis supplied.)

This rule contemplates that while the employe performs work of the higher rated position, he shall receive the higher rate for the full day, but it must be shown that the work was done and the days when it was done. Such a showing is entirely lacking here.

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 the claim is not sustained by any evidence showing a rule violation.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 17th day of March, 1947.