

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

James M. Douglas, Referee

PARTIES TO DISPUTE:

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

THE WESTERN PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood of Railway Clerks that the position of Assistant Cashier at Lathrop, California, should properly be rated at \$7.72 per day and that Frances Keys, adversely affected by reason of failure of the Railroad properly to rate this position, shall be reimbursed for wage loss sustained since the position of Assistant Cashier at Lathrop, California, was created.

EMPLOYEES' STATEMENT OF FACTS: Through Western Division Clerks' Circular No. 159-42 of October 20, 1942, position of Assistant Cashier was created at Stockton, California. The rate which has now become \$7.72 per day was agreed to through mutual understanding. The duties, generally, consisted of assisting the Cashier in the preparation of various reports, accepting payments on freight bills, etc.

Through Western Division Clerks' Circular No. 9-43 of January 16, 1943, a position of Assistant Cashier was created at Lathrop, California, at the rate which has now become \$7.54 per day. The duties of this position consist of compiling daily balance sheet, abstracting waybills, remitting Government bills of lading after having matched the same with freight bills of inbound movements, recording Government bills of lading numbers, making freight bills, and handling correspondence with Auditor Freight and Passenger Accounts concerning cashier matters at Lathrop.

There is no position on the Western Division rated at \$7.54 per day.

POSITION OF EMPLOYEES: The following rule is cited from agreement between the parties bearing effective date of October 1, 1930:

"Rule 9. The wages for new positions shall be in conformity with the wages for positions of similar kind or class in the seniority district where created."

As indicated in Employees' Statement of Facts, the rate which has now become \$7.72 per day was set by mutual understanding for position of Assistant Cashier at Stockton, California.

Both Stockton, California and Lathrop, California, are in Seniority District 16, covering employes holding seniority rights under the Clerks' Agreement on Carrier's Western Division.

POSITION OF CARRIER: As shown in the Carrier's Statement of Facts, two positions of Assistant Cashier were established in the Joint Agency before the creation of the position here involved. In addition, later on there was an additional position of Assistant Cashier, making a total of four such positions, three of which were filled by Southern Pacific employees and one by a Western Pacific employee. The Carriers made every possible effort to reach an agreement with the two General Chairmen, and the only reason such an agreement was not reached was because of the dispute as to whether or not the creation of the Joint Agency was a coordination under the Washington Job Protection Agreement.

The agreement governing clerical employees provides that "the wages for new positions shall be in conformity with the wages for positions of similar kind or class in the seniority district where created". The intent of this rule clearly is to insure that the same rates of pay will apply to positions of equal responsibility and duties. The four positions of Assistant Cashier at the Joint Agency at Lathrop are identical, and there can be no closer comparison than between each other, and Carrier contends that there is no justification for paying the Western Pacific employee holding the position of Assistant Cashier any higher rate than is paid to the other three Assistant Cashiers.

OPINION OF BOARD: When Carrier established the new position of Assistant Cashier in the joint agency at Lathrop there was already a position of similar kind or class in the same seniority district, namely, Assistant Cashier at Stockton. But Carrier did not assign the new position the same rate paid the one at Stockton; it assigned a lower rate which was the same being paid the assistant cashiers already employed there by a different Carrier, the Southern Pacific.

The question for decision is whether the rate to be paid a new position should conform to a rate being paid an employee under the same agreement, or should conform to the rate being paid some other Carrier's employee under a different agreement.

The intent of the Agreement between the parties in this case is that rates for new positions must conform to rates for similar positions under their own agreement, not similar positions maintained by other parties under other agreements.

We find from the record that the assistant cashier at Lathrop is in a position of similar kind and class as the same entitled position at Stockton, so, under the agreement, it is entitled to the same rate. Compare Awards 1861, 2678, 2809, 3447.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearings thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employee involved in this dispute are respectively Carrier and Employee 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 Carrier violated the Agreement as contended by Petitioner.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 20th day of March, 1947.