

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Herbert B. Rudolph, Referee

PARTIES TO DISPUTE:

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

THE ERIE RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that the Carrier violated the Clerk's Agreement at Susquehanna, Pennsylvania, when it failed to call employee C. T. Evans, regularly assigned inventory Stockkeeper, Susquehanna, Pennsylvania, to perform inventory work on Sunday, November 18, 1945, and

That Carrier shall now compensate employee C. T. Evans on a call basis for five and one-half (5 ½) hours at time and one-half rate.

EMPLOYES' STATEMENT OF FACTS: Joint investigation was made for the purpose of establishing the facts pertinent to this dispute and the record thereof is quoted below and here used as Employees Statement of Facts.

"Chester T. Evans, regularly assigned Inventory Storekeeper, Susquehanna, Pa., extended annual inventory sheets November 12th to 17th, inclusive.

"On Sunday November 18th, K. Walker, regular assigned counterman, Section B Stores Department, Susquehanna, Pa., worked as counterman for two and one-half hours and five and one-half hours was assigned to the duties of extending annual inventory sheets, which duties had been performed by Chester T. Evans on the six days preceding Sunday, November 18, 1945.

"K. Walker, counterman, was paid eight hours at time and one-half rate for time worked on Sunday, November 18, 1945, on which Sunday Chester T. Evans was not worked."

(sgd) **H. E. Tice**
Division Storekeeper

(sgd) **Charles E. Smith**
Division Chairman
B.R.C.

Susquehanna, Pa.
January 28th, 1946

POSITION OF EMPLOYES: There is in effect between the parties an Agreement bearing an effective date of July 1, 1945 which contains the following rules:

keeper Evans assisted in this work the same as all other storehouse employees, incident to and as part of his regular work.

Walker's seniority date is February 10, 1931 and Evans' seniority is from October 15, 1942. Walker has been a stockkeeper since February 1, 1937 whereas Evans was only promoted to stockkeeper on April 1, 1943. On March 4, 1946 Evans was displaced by a senior employee and is now a laborer in Stores Department.

This claim is not justified under any rule of the agreement and Carrier has complied with all provisions of the rules concerning seniority and overtime.

Walker was senior to Evans and was notified to work overtime on Sunday, November 18, 1945, for the purpose of disbursing material and keeping records of material disbursed to shopmen on 1410 orders, which work is done by Walker on other days of the week. The Annual Accounting Inventory work done by Walker on Sunday, November 18, 1946 was done incidental to his regular work just as he and all other Stores Department employees were doing during period of the Annual Accounting Inventory which was started October 29, 1945 and completed November 22, 1945.

There was no one notified or called to work on Sunday, November 18, 1945 to perform exclusive Annual Accounting Inventory work. None of the work that Stockkeeper Walker performed on Sunday, November 18, 1945 on call basis was work assigned exclusively to Stockkeeper Evans.

The counter work, disbursing of materials and keeping record, was work done regularly every day by Stockkeeper Walker and the inventory work done by Walker during the eight hours he worked was work in connection with the Annual Accounting Inventory. This work was not part of Evans' regular assignment. It is work done only in connection with the Annual Accounting Inventory. The taking of an annual inventory is not a part of the routine daily work of the Carrier. There is nothing in the rules to prevent Carrier from using any or all of its employees in any capacity in taking of an annual inventory, and it would be most unreasonable to interpret the rules to sustain the claim herein made on behalf of Stockkeeper Evans. The Third Division in Award 2013, Docket CL-1931 sustained this position.

OPINION OF BOARD: This claim relates to work involved in taking annual inventory in the Storehouse at Susquehanna, Pennsylvania. It comes to this Board on a Joint Statement of Facts, as follows:

"Chester T. Evans, regularly assigned Inventory Stockkeeper, Susquehanna, Pa., extended annual inventory sheets November 12th to 17th, inclusive.

"On Sunday, November 18th, K. Walker, regularly assigned counterman, Section B Stores Department, Susquehanna, Pa., worked as counterman for two and one-half hours and five and one-half hours was assigned the duties of extending annual inventory sheets, which duties had been performed by Chester T. Evans on the six days preceding Sunday, November 18, 1945.

"K. Walker, counterman, was paid eight hours at time and one-half rate for time worked on Sunday, November 18, 1945, on which Sunday Chester T. Evans was not worked."

Inventory must be taken in the shortest possible length of time, it is not a part of the daily routine work of the Railroad and there is nothing in the rules to prevent the Carrier from using any or all of its employees in any capacity on the taking of annual inventory. Award 2013. Such being the character of the work of taking inventory the fact that Claimant had worked the week of November 12, extending annual inventory sheets gave him no preferential right to perform such work to the exclusion of others.

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 parties waived oral hearing thereon;

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 Agreement was not violated by the Carrier.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 11th day of June, 1947.