

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

H. Nathan Swaim, Referee

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**PARTIES TO DISPUTE:**

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

**ATLANTIC COAST LINE RAILROAD COMPANY**

**STATEMENT OF CLAIM:** Claim of the System Committee of the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees:

1—That the carrier violated Rules 40 and 60 of the agreement effective November 16, 1944, Mediation agreement effective February 1, 1945 and paragraph 3 of the Federal Manager of Government Controlled Railroads Notice and Order No. 1 dated May 17, 1946 by refusing employment to employees enumerated in attached Exhibits A and B at Jacksonville, Fla., on May 24 and 25, 1946.

2—That employees enumerated in attached Exhibit A and B be paid for the lost time which is shown in the exhibits for the dates in question, which represents the loss to the employees because of the carrier's violation of agreement.

**EMPLOYEES' STATEMENT OF FACTS:** Rule 40 of agreement between the parties to this dispute reads as follows:

"Prior to the assertion of grievances as herein provided, and while questions of grievances are pending, there will neither be a shutdown by the employer nor a suspension of work by the employees."

Rule 60 of agreement reads as follows:

"Employees covered by Groups (1) and (2), Rule 1, heretofore paid on a monthly, weekly, or hourly basis shall be paid on a daily basis. The conversion to a daily basis of monthly, weekly or hourly rates shall not operate to establish a rate of pay either more or less favorable than is now in effect.

Nothing herein shall be construed to permit the reduction of days for the employees covered by this rule below six per week, excepting that this number may be reduced in a week in which holidays occur by the number of such holidays."

Mediation agreement effective Feb. 1, 1946 reads as follows:

"Effective February 1, 1945, the following rule shall govern Group (3) employees covered by the current agreement between the Atlantic Coast Line Railroad Company and its clerical employees

remained in effect, and was so intended, notwithstanding the provisions of the Mediation Agreement. The guaranteed work week for Group 3 employes is observed, but is subject to the existence of an emergency beyond the control of the carrier as covered by Rule 45. Therefore, the Mediation Agreement did not affect the release of Group 3 employes from service for the duration of the emergency caused by the strike.

(Exhibits not reproduced.)

**OPINION OF BOARD:** The claims presented by this docket are for pay lost by employes regularly assigned to Groups 1, 2 and 3 positions at Jacksonville Agency and Yards, and who were not permitted to work on May 24 and 25, 1946, because of the strike of Locomotive Engineers and Trainmen. The issues involved in this dispute are identical to those presented in Award 3723 and involve the same Carrier and the same Organization.

For the same reasons assigned in the award this date rendered in said Award 3723, we are of the opinion that the Carrier in the case here presented also violated Rule 60 of the current Agreement as to Groups 1 and 2 employes and violated the provision of the Mediation Agreement, effective February 1, 1945, as to the Group 3 claimants.

**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 31, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Carrier violated Rule 60 of the current Agreement as to Groups 1 and 2 employes and violated the Mediation Agreement as to claimants who were Group 3 employes.

#### AWARD

The claims presented herein are sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: H. A. Johnson  
Secretary

Dated at Chicago, Illinois, this 19th day of November, 1947.