

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Edward F. Carter, Referee

PARTIES TO DISPUTE:

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

**THE ATCHISON, TOPEKA AND SANTA FE RAILWAY
COMPANY**

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

- (a) That Clerk C. J. Rankin, Jr. shall be given credit for clerical experience accumulated while serving in the Army of the United States; and,
- (b) That Clerk C. J. Rankin, Jr. shall be paid the established rate of pay of the position he occupied retroactive to March 1, 1946.

EMPLOYES' STATEMENT OF FACTS: Mr. C. J. Rankin, Jr. now occupies Position No. 3165 at Kansas City, Missouri, which position has a basic rate of \$6.93 (Now \$8.41) per day. Prior to his entry into service as a Trucker on April 7, 1941 he had acquired six months clerical experience. He accumulated an additional six months clerical experience following his entry into service and prior to his induction into the Army of the United States on February 27, 1942. He was honorably discharged from the Army of the United States on December 2, 1945, and resumed active service with the Carrier on position of Utility Clerk on December 17, 1945. His Class 3 seniority date is April 7, 1941 and his Class 1 date is August 7, 1941.

For approximately six months prior to entering the Army Mr. Rankin performed clerical work for the Carrier such as messenger work, railway car distribution work, checking cars and trains, maintaining records of location and movement of cars, etc. While in the Army he had three months basic training and forty-two months service as "Railway Traffic Man." As Railway Traffic Man in the Army Rankin performed duties similar to those he performed for the Carrier as a civilian, which Army duties consisted of directing troop trains into yards; dispatching trains; regulating the number of cars according to load, both in supplies and personnel; issued warrants for rail journeys; kept records of incoming and outgoing moves, tonnage and types of loads and had knowledge of regulations governing operation of Military Railways.

In December, 1945 when Rankin was discharged from military service and reported to exercise his right to a position with the Carrier, he had then to his credit an accumulation of fifty-four months clerical experience, twelve months before going to the Army and forty-two months while in the Army and was therefore, under provisions of the Agreement rules, entitled to be compensated at the full basic rate of his position. Carrier refused to recog-

Board. Moreover, there was involved in the dispute covered by Award 1832 the alleged performance of clerical work in the Army prior to establishment by the complainant employe of an employment relation with this Carrier; whereas, in the instant dispute there is involved the alleged performance of clerical work in the Army after the establishment of an employment relation with this Carrier by the complainant employe and for which service no experience credit could properly be allowed within the meaning and intent of Article XI, Sections 2 (a) and (b) of the current agreement. Because of this, a denial by the Board of the instant claim is warranted all the more.

* * * *

In their handling of the instant claim with the Carrier the Employees cited as in violation Article II, Sections 1 and Article XI, Section 1 of the Clerks' Agreement. Those rules, which are quoted at the beginning of the Carrier's Statement of Facts, obviously have no bearing whatever on the instant dispute, which involves solely the question of crediting complainant employe with clerical experience he is alleged to have acquired in the United States Army.

The Employees also cite as in violation Sections 2 (a) and (b) of Article XI of the Clerks' Agreement. As had been previously shown in the Carrier's Position, there is no support in the language of the referred-to rules for the contentions advanced by the Employees. Those rules, to the contrary, clearly provide that only experience in railroad clerical work or clerical work in outside industry of a similar nature to railroad clerical work, may be considered, and, moreover, they pertain only to experience obtained by individuals before they establish an employment relation with this Carrier.

A sustaining award in the instant dispute would have the effect of broadening Article XI, Sections 2 (a) and (b) of the Clerks' Agreement to require the crediting of experience of a kind which clearly is not now recognized under its terms. This the Third Division is not authorized to do under the Railway Labor Act, as amended.

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In conclusion the Carrier asserts that the instant claim is entirely without merit or schedule support and should be denied for reasons heretofore stated.

(Exhibits not reproduced.)

OPINION OF BOARD: Clerk C. J. Rankin, Jr. occupies position No. 3165 at Kansas City, Missouri. Prior to his entry into this Carrier's service as a Trucker on April 7, 1941, he had acquired six months' clerical experience. He acquired an additional six months' clerical experience in the service of this carrier prior to his induction into the Army on February 27, 1942. He returned to the service of the Carrier as Utilities Clerk on December 17, 1945. While in the Army he served forty-two months as Railway Traffic Man, a position in which he was principally engaged in performing clerical work. It is the contention of Clerk Rankin that he is entitled to credit for this clerical experience in the Army in determining his rate of pay under the provisions of Article XI of the current Agreement.

Every question here raised is determined in Award No. 3950, decided herewith. On the authority of that award, the claim must be sustained.

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 charged.

AWARD

Claim (a) and (b) sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 30th day of June, 1948.