

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Dudley E. Whiting, Referee

PARTIES TO DISPUTE:

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

**ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY
ST. LOUIS, SAN FRANCISCO AND TEXAS RAILWAY
COMPANY**

STATEMENT OF CLAIM: Claim of System Committee of Brotherhood that Carrier violated the Clerks' Agreement:

(1) When it uses employes of other crafts to handle Enginemen's Board and write up CT 107 A Std. "Register of Hours service—Train and Enginemen" in the Mechanical Department at Fort Worth, Texas, and

(2) That employe Mark E. Holibaugh be compensated at rate of time and one-half for each Sunday not permitted to work the position of Roundhouse-A.R.R. Clerk from March 1, 1949 to about April 19, 1949 when he was displaced by Mr. F. L. Perkins and claim of Mr. Perkins from April 19, 1949 for each Sunday not permitted to work until corrected.

JOINT STATEMENT OF FACTS: Effective March 1, 1949, the carrier reduced the assigned number of working days per week of the Roundhouse Clerk position at Fort Worth, Texas, from seven to six days, excluding Sundays. For some time prior to March 1, 1949, the Lead Mechanic (Foreman) and the roundhouse clerk daily marked up the enginemen's board and recorded entries in the "Register of Hours of Service—Train and Enginemen" Form CT-107-A-Std. The Lead Mechanic (Foreman) continues to mark up the enginemen's board on Sundays. The Lead Mechanic (Foreman) continued to record entries on Form CT-107-A-Std. on Sundays until February 5, 1950, when arrangements were made by the carrier for entries for that day to be recorded the following day.

POSITION OF EMPLOYES: In the handling of this case on the property the Carrier denied payment claimed in behalf of Clerks Holibaugh and Perkins and declined to restore the involved Sunday work to the scope and application of the Clerks' Agreement on the theory that it was incidental to the duties of the Lead Mechanic (Blacksmith) because he and the Roundhouse-AAR Clerk had daily performed the work for some period of time prior to March 1, 1949.

There is no denial of the fact that Lead Mechanic (Blacksmith) Mr. G. D. O'Gorman, did perform some of the involved clerical work daily from

4355, that work as such is not described in the Scope Rule of the present agreement, nor is the position of roundhouse clerk listed in the subject agreement.

The carrier, in an effort to effect an amicable settlement of this dispute on the property, suggested to the employees that it would endeavor to relieve the lead mechanic (foreman) of writing up the CT-107-A-Std. report on Sundays if this would satisfy the complaint. The proposal was submitted solely in the interest of disposing of the case on the property to avoid burdening your Board with this dispute and without an admission of any kind whatsoever by the carrier that the manner in which the work was then handled violated agreement rules. The employees declined the carrier's proposal but as shown in the joint statement of facts, the carrier nevertheless put in effect its proposal and on February 5, 1950 relieved the lead mechanic (foreman) of recording entries in the CT-107-A-Std. register on Sunday.

Subsequent to February 5, 1950 there is, therefore, before this Board the sole question whether the carrier is violating the Clerks' Agreement in permitting or requiring the lead mechanic (foreman) to devote approximately ten minutes of his time on Sundays to marking up the enginemen's board. This work performed by the lead mechanic (foreman) is incidental to his regular position. The carrier submits that it has presented adequate proof showing that the work had been performed jointly by the lead mechanic (foreman) or hostler foreman and roundhouse clerk on week days as well as on Sundays for a considerable period of time prior to the instant claim and that there is no sound basis for the allowance of this claim under agreement rules. The Board is respectfully requested to so find.

(Exhibits not reproduced.)

OPINION OF BOARD: This claim is predicated upon the fact that, when the assigned working days per week of the Roundhouse Clerk position at Fort Worth were reduced from seven to six on March 1, 1949, the roundhouse supervisor marked up the enginemen's board and until February 5, 1950 made entries on form CT-107-A which is a register of the hours of service of train and enginemen.

First, it should be noted that such work is incidental to the roundhouse supervisor's responsibility for the dispatch of locomotives and crews.

Secondly, it does not appear that such work has been assigned exclusively to positions within the scope of the agreement. Such work has always been performed by the night roundhouse supervisor as no clerk is employed at night. From April 1940 to December 17, 1941 the Roundhouse Clerk position was reduced to six days and the roundhouse supervisor performed these tasks on Sunday without protest. There is evidence that since 1944 at least the roundhouse supervisor as well as the clerk performed such tasks daily.

Under such circumstances we find the claim to be without merit.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That both parties to this dispute 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.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 3rd day of October, 1951.