

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Adolph E. Wenke, Referee

PARTIES TO DISPUTE:

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

MINNEAPOLIS & ST. LOUIS RAILWAY COMPANY

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

(1) That Carrier violated rules of the Clerks' Agreement commencing with application of the Forty Hour Week Rules, effective September 1, 1949, and continued to violate the forty hour agreement when it failed to properly apply the provisions of said Forty Hour Week Rules in conjunction with rules of the General Agreement in according required relief service on the Cashier position at Mason City, Iowa.

(2) That the involved employe, R. Height—Cashier at Mason City, Iowa, be allowed an additional day's pay at rate of time and one-half for each Monday from September 1, 1949, to April 14, 1952, inclusive, and an additional day's pay at time and one-half for Saturday, April 26, 1952, and all subsequent relief days of each succeeding week that his position was not filled in conformity with rules of the 40 hour rules agreement, in conjunction with the General Agreement.

EMPLOYEES' STATEMENT OF FACTS: Prior to September 1, 1949, Ralph Height, Cashier at Mason City, Iowa, was assigned to work from 8:00 A. M. to 5:00 P. M. with rest day of Sunday.

Effective with the establishment of the forty hour week he was assigned to work from 8:00 A. M. to 5:00 P. M. with rest days of Sunday and Monday.

The main duties regularly assigned to Cashier's position are:

Answering telephone

Check waybills against in bound lists

Phone various industries and advise as to cars received for them.

Phone M. & St. L. Ry. reporting cars delivered to them and takes report of cars for M. & St. L. Railway

Phone connecting lines about cars for them and get disposition of same.

While the position occupied by the instant claimant is designated as "Cashier", the duties include various clerical duties other than those ordinarily designated as "Cashier" duties.

The telegraphers, the bill clerk, the cashier and the agent all perform clerical duties of various kinds during their tours of duty, no clerical work being assigned exclusively to any employee to the extent that some of the other employees do not at times perform the work. That is true especially on employees' rest days when some of their work necessarily must be done by the employees regularly assigned to work on those days.

All employees, including the agent, have performed work as above outlined for many years without complaint or protest by the Clerks' Organization.

Effective September 1, 1949, when the five-day work week was put into effect, there was not, insofar as could be determined by the Carrier, sufficient work on Mondays to necessitate the assignment of a relief clerk on that day, nor for a call assignment for the regularly assigned employee. A considerable portion of the cashier's usual work could be and was carried forward into his following work day. However, if any of his duties needed to be done on his rest day, it was done by the employees working on that day.

Cashier Height's assigned rest days were Sunday and Monday from September 1, 1949 to April 14, 1952.

On Mondays, such of Cashier Height's duties as needed to be performed, were performed by the employees on duty, including the agent.

As previously explained, the agent at Mason City has always performed clerical work of various kinds, and he did so on Mondays, including some of Cashier Height's duties on that day, Height's assigned rest day.

Carrier believes that in view of that practice, which prior to inauguration of the five-day work week had for years been acquiesced in by the Clerks, there was no violation of the Clerk's Agreement when on Mondays the agent performed some of the duties which on other week days were usually performed by Height.

Effective April 14, 1952, Cashier Height's assigned rest days were changed to Saturdays and Sundays and on each Saturday since that date the telegrapher on duty has performed such of the cashier's duties as need to be done on that day.

The telegraphers at Mason City have always performed clerical work of all kinds, including at times some of the duties ordinarily performed by the cashier.

Clerical duties are as much a part of the telegraphers' duties at Mason City as they are of the clerks at that place. Some of the work usually performed by the Cashier on his work days must of necessity be performed on Saturdays, one of the cashier's assigned rest days, and the telegrapher on duty performs that work.

In view of the circumstances as herein outlined, Carrier believes the instant claim to be without merit.

All data in support of Carrier's position has been presented to the representatives of the Employees. (Exhibits not reproduced.)

OPINION OF BOARD: This claim arises out of the following situation. Prior to September 1, 1949 Carrier, at Mason City, Iowa, had a regular position of Cashier with a work week of Monday to Saturday with Sunday as rest day. It was a six-day position. The parties adopted the 40-Hour

Week Agreement. Thereafter, effective September 1, 1949, Carrier assigned to this position a work week of Tuesday to Saturday with Sunday and Monday as rest days. This assignment continued until April 14, 1952. During this period the Agent performed the duties of this position on Mondays which could not be carried over until Tuesdays. After April 14, 1952 the position was assigned a work week of Monday to Friday with Saturday and Sunday as rest days. Thereafter a Telegrapher performed the regular duties of the position on Saturdays that could not be carried forward from Saturdays to Mondays. The work remained of a six-day character and the amount performed on Mondays or Saturdays by either the Agent or a Telegrapher was substantial. Neither the Agent nor the Telegraphers are covered by the Clerks' Agreement. Claimant R. Height occupied the position of Cashier during all of the time for which claim is here made.

This is a companion case in principle to Docket GL-6338 on which our Award 6216 is based. All that was said in that award has application here and is controlling. In view of what we held therein we sustain the claim here made in behalf of R. Height but on a pro rata basis.

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 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 Carrier violated the Agreement.

AWARD

Claim sustained in accordance with the Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 29th day of May, 1953.