

Award No. 7082

Docket No. CL-7014

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**

**CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD
COMPANY**

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

(a) The Carrier violated the Clerks' Agreement, when on February 10, 1950, F. X. Foran was arbitrarily moved from his regular position of Transportation Clerk in the Superintendent's Office, Cedar Rapids, Iowa, on Thursday and Friday of each week, to work the rest days assigned to the Stenographer-Clerk's position in the Chief Dispatcher's Office.

(b) F. X. Foran be paid four (4) hours additional time on Thursday and Friday each week at Stenographer-Clerk's rate of pay, February 10, 1950 to December 1, 1951.

(c) F. X. Foran be paid one-half ($\frac{1}{2}$) hour additional time on Thursday and Friday each week at Stenographer-Clerk's rate of pay, December 1, 1951 to December 1, 1952.

EMPLOYEES' STATEMENT OF FACTS: (a) Mr. F. X. Foran is regularly assigned to position of Transportation Clerk in the Superintendent's Office at Cedar Rapids Iowa. He has occupied this position since 1932. Since application of the 40-hour week Rules on September 1, 1949, his hours of service have been 8:00 A. M. to 12 noon, and 1:00 P. M. to 5:00 P. M., Monday to Friday of each week. The position he occupies is one designated as a 5-day per week job, Saturday and Sundays as rest days, with duties assigned thereto substantially as shown in Employees' Exhibit No. 1.

(b) As of the effective date—September 1949—of the application of the Forty-Hour Week Rules—there was also employed in the Carrier's Chief Dispatcher's Office located on the second floor of the Carrier's Division Headquarters at Cedar Rapids, separate and apart from the Division Superintendent's Office on the first floor in which Mr. Foran is employed, a position of Stenographer-Clerk ordinarily referred to as the Chief Dispatcher's Clerk. This is a 7-day position with Sunday and Monday of each week designated as the rest days of the regular assignee, Mr. Awes. From September 1949 to January 1950 the relief days on this job, Sunday and Monday, were not included in the assignment of a regular relief worker.

It is hereby affirmed that all of the foregoing is in substance known to the Organization's representatives.

(Exhibits not reproduced.)

OPINION OF BOARD: The Organization contends that claimant was suspended from his position to absorb overtime in violation of Rule 49 (f). Actually he was merely required to make up certain reports which constituted rest day relief work of another position. This is governed by Rule 46½ and Rule 49 (f) is not applicable to the circumstances shown.

If he was improperly used to relieve the assigned rest day of another position, the loss of work accrues to the employe who was entitled to perform it under Rule 46½, not to the one who has been paid for performing it. Claimant worked the assigned hours of his position performing work within the craft and class to which he belonged and was paid the highest rate applicable to either position. He was in no way injured and a claim on his behalf is therefore wholly lacking in merit.

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.

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

The claim is without merit.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 29th day of July, 1955.