

Award No. 7288

Docket No. CL-7202

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

LeRoy A. Rader, Referee

PARTIES TO DISPUTE:

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

GREAT NORTHERN RAILWAY COMPANY

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

(a) That Carrier violated rules of Agreement in assigning clerical work incident to calculating time earnings of Agents and Telegraphers (time-keeping payroll work) in Office of Division Superintendent at Grand Forks, North Dakota, to outsiders, namely T. A. Majeres, Station Inspector.

(b) That M. A. Kraker, Labor Distribution Clerk in the Superintendent's Office at Grand Forks, whose regular assignment requires the performance of timekeeping work of Agents and Telegraphers, be reimbursed for wage loss sustained, namely 160 hours at overtime rate representing the hours worked by Majeres during the months of August and September 1950.

EMPLOYES' STATEMENT OF FACTS: The Carrier maintains a clerical force in its Superintendent's Office at Grand Forks, North Dakota, to handle certain types of clerical work common to railroad operations. The territory under the jurisdiction of Division Superintendent R. H. Hemmesch, extends from St. Cloud, Minnesota to Minot, North Dakota, approximately 1718.36 miles including branch line mileage.

The Superintendent's immediate clerical force as of the date this dispute arose, August-September 1950, comprised 25 positions within which were 8 positions primarily engaged in timekeeping and accounting work. The employees assigned to this particular class of work, namely timekeeping and accounting work, were:

Name of Regular Assignee	Payroll Designation	Rate of Pay
C. W. Young	Material Clerk	\$ 15.27
A. Ronne	AFE Clerk	14.97
W. G. Sadbrink	Enginemens Timekeeper	14.85
E. K. Johnson	Trainmens Timekeeper	14.85
Mark Kraker	Labor Distribution Clerk	14.37
F. B. Peschel	Road and Track Clerk	14.43
L. Harbeke	General Clerk (Yard Tkpr)	14.07
J. Sullivan	B & B Clerk	13.89

OPINION OF BOARD: This claim came into being by reason of changes made in working hours of certain employes under the provisions of the 40 Hour Work Week Agreement which made necessary the doing of additional clerical work.

The Organization contends the additional clerical work was performed by one outside the Clerks' Agreement. The work in question was performed by a Station Inspector not under the Agreement, whose position is that of a traveling auditor. Petitioners contend the work should have been performed by Claimant Kraker who held the position of Labor Distribution Clerk, which position is under the Clerks' Agreement. Cited in support of this position are numerous awards of this Division, notably Award 2506, same parties, alleged to present a similar situation. Also Award 6160, in which we said in part:

"The Carrier's supervisory employes . . . were not supervising the work or doing clerical work incident to their position, nor were the supervisory employes checking the work of the Clerks. They were actually correcting and doing the work of the Clerks. The fact that work has been improperly performed does not take it out of the agreement. The Carrier has its remedy against those employes who improperly perform work.

"The Inspector and Assistant Superintendent spent eighteen (18) hours doing Clerks' work. They were not authorized under the Clerks' Agreement to perform Clerks' work. If the work was to be corrected, it should have been done by a Clerk."

Carrier's position, in brief, is that the Station Inspector (Auditor) did not perform work which exclusively is that of clerical employes, citing Rule 1 (Scope) to the effect that this rule does not attempt to specify or describe work but merely sets forth classes of employes for whom the Agreement covers, hours of service and working conditions. That this work, if it belongs to any employe, belongs to the agents, telegraphers and the Station Inspector in connection with his duties as an auditor. Errors made in original computation by Claimant being also cited.

Cited in support of Carrier's position are Awards 1418, 2138, 5304, 6839 and other awards of this Division.

It is also contended that Claimant suffered no loss and therefore is entitled to no penalty. That the right to perform work is not the equivalent of the performance of work and the pro rata rate is the proper rate to be allowed for work to which entitled, however, contending here that the claimed work was not exclusively the work of Clerks as claimed in this case, as it was incidental to the work of auditing.

Without going into detail as to the nature of this work (it being fully described in the record), it is sufficient to say that in our opinion the work in question was clerical work, and thereby is covered by the Agreement. We do not believe Carrier's position, that the work performed was simply incidental to the work of auditing, is well founded.

We believe the reasoning presented in the opinion in Award 6160 correctly meets this situation and are also in agreement as to the method of payment allowed in the award in that case, which is, at pro rata rate.

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.

AWARD

Claim (a) sustained.

Claim (b) sustained at the pro rata rate.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois this 26th day of March, 1956.