

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

PARTIES TO DISPUTE:

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

MISSOURI PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees on the Missouri Pacific Railroad, that the Carrier violated the Clerks' Agreement:

1. When, effective on or about February 16, 1953, it did, contrary to Agreement provisions, arbitrarily and without conference, negotiation or agreement of the parties, in effect, establish an "excepted" position at its Kansas City, Missouri Local Freight Station warehouse facility—

(a) Designating such position as Assistant Agent—
a misnomer title with a monthly rate of \$432.00 for all services performed, and filled such position by appointment of H. C. Resseger, a Clerk;

(b) Effective June 1, 1953, it removed Clerk H. C. Resseger involuntarily from the position and filled it by appointment of Mr. A. J. Bishop, an employee of another class of service;

(c) Effective January 12, 1955, the Carrier established another, in effect, "excepted" position at its Kansas City freight warehouse facility, with **a misnomer title** of Assistant Agent in the same arbitrary manner as it had appointed A. J. Bishop as Assistant Agent, referred to in (b) hereof, and appointed Joseph C. Forbes from another class of service with a monthly salary of \$426.95 for all services performed;

2. All three appointees referred to in (a), (b) and (c) of "1" hereof, were given the duty and work of—

Supervising of loading, unloading and handling of less carload freight,

which arrangement remained in effect until Tuesday, February 1, 1955, when so-called Assistant Agent Mr. Bishop was moved from the warehouse platform to the Agent's office, upstairs, when he began performing the duties of—

Examining and handling papers preparatory to taking over the duties of **handling of personal record work**, covering employes in the Local Freight office and on the freight platform, such as—

1. Making investigations, handling correspondence relative to applications from new employes for the Warehouse Local Freight office and yards;

2. Advertising vacancy bulletins, assignment notices or bulletins, abolishment notices, displacement notices,

which work, identified as "1" hereof, was handled through all the years by the Agent's Stenographer, a fully covered scheduled position, while the work stipulated in "2" hereof was performed by the Chief Clerk to the Agent, a "restricted" position, which was a fully excepted position until July 1, 1943.

The work of "supervising of loading, unloading and handling of less carload freight" given to Assistant Agents in the warehouse, is work that theretofore, through the years, was performed by employes subject to the scope and operation of the Clerks' Agreement, either "restricted" from certain rules **only** of the Agreement, or who were covered by all the rules of the Agreement, as we shall show, which Carrier action was in violation of Scope Rule 1, Classification Rule 2, Seniority Rule 3, Promotion Rule 4, Seniority Districts and Rosters, Rule 5, Vacancies and New Positions, Rule 6, and other related rules, including the Effective Date and Changes Rule 45 of the Clerks' Agreement.

3. (a) Beginning Tuesday, March 1, 1955, the Carrier shall by appropriate Board order, be directed to compensate R. C. Davis, Chief Clerk, "restricted" from the seniority rules of the Agreement **only** (until he left the Chief Clerk position Tuesday, September 6, 1955) additionally a day's pay at pro rata rate, amount \$20.10 per day for each day, five days per week, Monday through Friday and the Relief Clerk, T. W. Lawless, shall be compensated additionally a day's pay at pro rata rate, \$20.10, for each Saturday and Sunday, account of Carrier's violation of the rules of the Clerks' Agreement cited herein.

(b) General Warehouse Foreman G. F. Gugel, "restricted" from the seniority rules of the Agreement **only**, shall be compensated by the Carrier additionally a day's pay at pro rata rate of \$19.63 per day, each day, five days per week, Monday through Friday, and punitive time for Saturday and Sunday, beginning March 1, 1955, such claims to continue until the dispute is disposed of and the claims satisfied.

NOTE: Chief Clerk R. C. Davis utilized his seniority on the Kansas City Terminal Station and Yards roster of September 1, 1914, to bid on an open, advertised position of "Open Item Clerk", rate \$15.38 per day, and the Carrier blanked the Chief Clerk's position each work day, September 6, 1955, Monday through Friday, until Monday, October 3, 1955, when Clerk Joe Aiduk, seniority date of July 11, 1928, was appointed to fill same. Claims in behalf of Joe Aiduk are being filed by the Division Chairman at Kansas City, similar to the Davis' claims, starting October 3, 1955, to continue each work day until the dispute is disposed of and the claims satisfied, which claims will be handled separately from this submission.

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;

That the dispute was certified to the Third Division of the Adjustment Board ex parte by complainant party; and

That hearing thereon has been held and concluded. Under date of November 16, 1956, the parties jointly addressed a formal communication to the Secretary of the Third Division, requesting withdrawal of this case from further consideration by the Division, which request is hereby granted.

AWARD

Case dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 12th day of December, 1956.