

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Carroll R. Daugherty, Referee

PARTIES TO DISPUTE:

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

**THE CHESAPEAKE AND OHIO RAILWAY COMPANY
(Pere Marquette District)**

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

(a) The Carrier failed to fully comply with Article V of the National Agreement of August 21, 1954 when it declined to pay to clerk Donald Emmons the rate claimed by this employe for each day worked on position No. 24 between February 27, 1955 and April 25, 1955, both dates inclusive.

(b) Clerk Donald Emmons be allowed the difference between what he has been paid and what he would have been paid during the period February 27, 1955 and April 25, 1955, both dates inclusive, had he been allowed the rate claimed, \$18.14 per day, instead of the assigned rate of \$14.58 per day during this period.

JOINT STATEMENT OF FACTS: The parties to this dispute have as an agreement between them the so-called National Agreement of August 21, 1954, including Article V thereof, between the Railroads represented by the Eastern, Western and Southeastern Carriers' Conference Committees and the employes of such railroads represented by the Employes' National Conference Committee, Fifteen Cooperating Railway Labor Organizations. Article V of this agreement is attached as joint exhibit No. 1 in this case.

On January 3, 1955 a new position in Carrier's Flint, Michigan, local freight office was established and bulletined at the rate of \$14.58 per day. Claimant in this case occupied this position during its bulletin period, and after bulletin assignment was made to him following advertisement. Under date of January 24, 1955 claimant filed claim in writing with the initial officer of the Carrier designated to handle claims under the Time Limits on Claims rule.

In his claim letter, claimant, the local chairman, asked that the rate of the new position be negotiated under Rule 36 (d) of the basic agreement between the parties. Claim in connection with the matter was stated in writing to be as follows:

dating back to January 3, 1955, but it could not possibly be considered as a claim for January 25, 1955 and subsequent dates until those dates had arrived and claimant performed service on them on the position in question. It follows further that the claim letter of January 24, 1955 was therefore equivalent to a claim filed on April 25, 1955 for April 25, 1955, after the day's work on this date had been completed and as such it cannot consistently be held that it must be allowed under the time limits rule as the agent denied it on that date.

All data submitted herein has been presented to representatives of the organization in handling on the property.

(Exhibits not reproduced.)

OPINION OF BOARD: The claim herein is for payment at the rate claimed for each day Claimant Emmons worked on Position No. 24 between February 27 and April 25, 1955, both dates inclusive, the latter date being that on which Carrier first denied the claim. The question of merits is not before us. Under Article V of the August 21, 1954 Agreement, the claim should be sustained.

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 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

Claim will be sustained in accordance with Opinion.

AWARD

Claim sustained in accordance with Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 28th day of April, 1958.