

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Norris C. Bakke, Referee

PARTIES TO DISPUTE:

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

ERIE RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that the Carrier violated Article II, Sections 1 and 3, of the Agreement of August 21, 1954 at 14th Street Freight House, Chicago, Illinois, when it fails to pay regularly-employed and established Roster "B" additional force employees for Memorial and Independence Day Holidays, May 31, 1954 and July 4, 1954, observed July 5, respectively, when such employees qualified for pay on such holidays by working the last workday of their preceding workweek and the day immediately following such holidays, and

That Employees J. Ashford, R. Allen, M. Barnes, L. Bailey, H. Dyers, B. Boyd, C. Barlou, B. Bowden, B. Bujas, B. Brower, A. Beasley, Z. Byrd, J. Burston, H. Beck, W. C. Clark, P. Cheetam, I. Clerk, Jr., H. Cockrell, C. Christon, P. Calhoun, T. Collins, P. Carter, R. Dowdell, C. Devine, W. M. Davis, J. E. Desmore, E. Eclarin, B. Ellis, T. Eastling, A. Edgcworth, P. Glass, N. Glover, B. Hunt, J. P. Hamilton, L. Hudson, G. Horton, H. Hughes, W. G. Jackson, U. Jones, D. C. Johnson, D. Johnson, A. Jarmon, E. Kurzejka, E. Kimble, F. Kimmons, J. N. Lewis, H. McAfee, E. Meyers, C. Perales, H. Person, F. Perales, W. Rogers, T. Rombialkewski, R. Ross, C. Reed, L. Rogers, W. J. Rogers, P. Rufus, B. Spina, J. B. Starks, S. Starr, L. Stewart, S. Samuels, R. Smith, C. Teemer, T. Tressell, L. Thomas, C. Telford, R. Temple, P. Taylor, C. Vickers, W. Williams, C. Walton, E. Whaley, W. B. Warner, J. Watson, E. Williams, N. Walton, I. Williams and B. Zera, and all other regularly-employed and established Roster "B" additional force employees at 14th Street, Chicago, Illinois for eight (8) hours at pro rata rate for the Memorial Day and/or Independence Day Holidays, May 31, and/or July 5, 1954 where they had so qualified for holiday pay on such holiday. (Claim 1062)

EMPLOYEES' STATEMENT OF FACTS: The named employees as set forth in the Employees' Statement of Claim, are the regularly-established additional force employees under the formula set forth in Rule 23 of the Clerks' Agreement and are the additional force as referred to therein.

In accordance with the Memorandum of Agreement dated March 30, 1948, these employees were assigned by the Agent to work the hours and the days of

The Carrier, therefore, submits that your Honorable Board should deny the claim in its entirety.

All data contained herein have been presented to or are known to the Petitioner.

(Exhibits not reproduced.)

OPINION OF BOARD: This is another case arising from the Carrier's freight platform facility on 14th Street in the city of Chicago, and involves the same rules as those in our recent Award 8762, except that in the instant docket the claim is founded on paragraph 8 of the Memorandum of Agreement of March 30, 1948, which paragraph reads as follows:

"8. Additional forces who on April 15, 1948, are assigned to work hours other than those recognized as designated reporting times need not report on subsequent days but will be considered as having reported and will work the same positions they worked preceding day unless notified before end of their tour of duty not to work on that position. In the event such employees are notified prior to the end of their tour of duty not to report for that position the following work day, they will then be required to again report at their designated reporting time."

In Award 8762 claim was based on paragraph 3 of said memorandum, and claimants made out a much stronger case than the employees do here under paragraph 8 but even so Award 8762 denied the claims.

We think claimants here being "additional force employees" were at least one step further removed from being "regularly assigned employees" as contemplated by Article II, Section 1 of the August 21, 1954 Agreement, than those in Award 8762.

We think the record bears out Carrier's statement that "Under the applicable agreements, extra or additional force employees have no assigned workweeks; they are not subject to Rule 28 (Guarantee) and have no assigned rest days. These employees are paid on an hourly or piece work basis, depending upon the type of work performed on a particular day."

Reading the language just quoted against what we have defined as a "regularly assigned employee", viz., "one who has been assigned to and holds tenure indefinitely (so long as it exists) on a regularly established position with regularly assigned hours and rate of pay (see Awards 2170 and 2297, Second Division, and Awards 7430 and 7432, Third Division)." Award 8762, supra. It must be obvious that the claimants do not qualify for the holiday pay sought in their claims, and therefore must be denied.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived hearing on this dispute; and

That the Carrier and the Employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act, as amended June 21, 1934;

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

That the Agreement was not violated.

AWARD

Claims denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 15th day of April, 1959.