

Award No. 9285

Docket No. CL-8498

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

PARTIES TO DISPUTE:

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

THE WESTERN PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: This is a claim of the System Committee of the Brotherhood that:

(a) The Carrier violated and continues to violate the rules of the Clerks' Agreement through its action in abolishing the position of Roundhouse-Clerk, Portola, California and Roundhouse-Clerk, Stockton, California, both with hours 11:59 P. M. to 7:59 A. M., effective with the completion of work Wednesday, March 9, 1949, and assigning part of the work of these positions to employees outside the Clerks' Agreement.

(b) A Third Trick Roundhouse Clerk's position be reestablished, bulletined and assigned in Stockton, California and at Portola, California.

(c) That the two senior Mechanical Department furloughed employees be compensated for a day's pay at the Roundhouse Clerk's rate for each and every day that the work here involved has been performed by employees outside the Agreement, beginning March 10, 1949, and continuing until the violations are corrected.

In the event that there are no Mechanical Department furloughed clerks, qualified and available, then Mrs. M. L. Elliott, the senior available Roundhouse Clerk at Stockton, and Mr. J. W. Weddell, the senior available Roundhouse Clerk at Portola, shall each be paid for eight hours for each of the days involved in this claim, at the rate of time and one-half, beginning March 10, 1949, and continuing until the violation is corrected.

NOTE 1: Due to employees laying off, on vacation or having change in employment status, restitution to other employees who may be involved shall be determined by joint check of Carrier's payroll records, etc.

NOTE 2: In the event that Your Honorable Board takes the position that the Letter Agreement of July 2, 1954, takes precedence

over the Rules Agreement, and served as a cut-off to the retroactive payment involved, we respectively request that the following be substituted for the first paragraph of "(c)" above.

That the two senior Mechanical Department furloughed employees be compensated for a day's pay at the Roundhouse Clerk's rate for each and every day that the Carrier has failed and/or refused to make these assignments from February 4, 1955, at Stockton, and from February 13, 1955, at Portola, and continuing until the violations are corrected.

FINDINGS: The Third Division of the Adjustment Board, 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;

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

That hearing thereon was waived by the parties and under date of February 23, 1960, 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: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 24th day of March, 1960.