

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Howard A. Johnson, Referee

PARTIES TO DISPUTE:

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

MISSOURI PACIFIC RAILROAD COMPANY (Gulf District)

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

(a) The Carrier violated the Clerks' Agreement when on July 4, 1955, July 23, 1955, August 13, 1955 and August 20, 1955, it farmed out, removed or otherwise arranged or assigned recognized Field Editor's work to persons not covered and who hold no seniority rights under the Clerks' Agreement.

(b) Claim that Mr. W. L. Andrews, occupant of Field Editor Magazine position No. 20, be paid eight (8) hours at pro rata rate for each day, July 4, 1955, July 23, 1955, August 13, 1955 and August 20, 1955.

EMPLOYEES' STATEMENT OF FACTS: Mr. Andrews holds position designated as Field Editor Magazine No. 20 and is assigned to work Monday through Friday. His headquarters are Houston, Texas.

Mr. Andrews' duties require that he prepare various photographs and articles for Carrier's monthly magazine; attend meetings of employees; attend public meetings and gatherings in the interest of the Carrier; supervise company billboards construction and maintenance; assist with picnics and booster meetings and parades.

On July 4, 1955, outside photographer used to take pictures.

On July 23, 1955, August 13, 1955 and August 20, 1955 Carrier officers and employes used to supervise Booster picnics.

POSITION OF EMPLOYES: The facts in this case are not in dispute.

On September 2, 1955 Mr. W. L. Andrews, Field Editor, filed claim with Mr. E. C. Sheffield, General Manager, account parties not under the Clerks'

The Board's attention is directed to the fact that this letter agreement provides for paying claimant, over and above his regular compensation, \$35.00 a month to "develop, print and do other work in connection with pictures on instructions of management, we to furnish the supplies and materials."

It is clear from this letter agreement that claimant did not have the exclusive right to take all pictures at all booster activities. The taking of pictures by claimant was confined to such pictures as he was instructed by the management to take. Claimant was not instructed by Management to take any pictures on the four dates in question.

As a matter of fact, we have no record of any pictures being taken on the four dates here involved. However, if there were any taken it was done by the Booster Clubs and any expense therefore was included in the appropriation allotted for such meetings. In connection with these claims we are reproducing next below letter addressed to Chief Personnel Officer T. Short by General Manager E. C. Sheffield under date of January 19, 1956, which is self-explanatory:

"Houston—January 19, 1956

Mr. T. Short—Palestine

Your file BRC 13-55 (TJD), with reference to claim of W. L. Andrews.

Mr. Andrews has never attended all the Booster meetings, and know of no work assigned to Mr. Andrews which was performed by Officers and employees, unless he has reference to his not attending Booster meetings, and meetings being attended by Chief Boosters and Officers of Booster Clubs.

In each of the claims referred to, reference is made to taking of pictures by outside photographers. We have no record of this having been done, but if it was done, it was done by the Booster Clubs and the expense included in the appropriation for the particular meeting.

/s/ E. C. SHEFFIELD"

As we have pointed out in Carrier's Statement of Facts, claimant's duties as Field Editor pertained primarily to the Missouri Pacific Magazine and to advertising. In addition thereto he attended such Booster Meetings as instructed by the General Manager. In other words, he was not required to nor did he attend all Booster activities, either for the purpose of taking pictures or to perform other duties.

Therefore, in view of the fact that claimant was not instructed to and accordingly did not attend the meetings on the four dates in question there can be no basis for the claims here presented, and such claims should be denied.

The substance of matters contained herein has been the subject of discussion in conference and/or correspondence between the parties.

(Exhibits not reproduced.)

OPINION OF BOARD: The pertinent facts are not in dispute. The Employees' Statement of Facts says:

"Mr. Andrews' duties require that he **prepare** various photographs and articles for Carrier's monthly magazine; **attend** meetings of employes; **attend** public meetings and gatherings in the interest of the Carrier; * * * **assist** with picnics and booster meetings and parades." (Emphasis added.)

There is no claim that his work included supervising of booster picnics, or that he had exclusive rights to take or prepare pictures on the property or to attend meetings or assist with booster picnics.

But the objections are that on one holiday occasion someone else took pictures, and that on three other occasions Carrier officers and employes supervised booster picnics.

The record does not show that any work exclusively belonging to Claimant was farmed out, removed from his assignment, or assigned to unauthorized persons.

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 not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 7th day of October, 1960.