

Award No. 9773

Docket No. CL-8731

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John Day Larkin, Referee

PARTIES TO DISPUTE:

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

**CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY**

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

1. Carrier violated the rules of the Clerks' Agreement on Sunday, May 1, 1955 and Sunday, June 5, 1955, when it assigned work normally attached to and performed by the regular occupant of Position No. 594, Monday through Friday, to an employee assigned to work on Sunday but not identified with the work.
2. Carrier shall compensate Employee F. B. Griller, regular occupant of Bill and Rate Clerk Position No. 594, Sioux City Stock Yards, Iowa for five hours and twenty minutes (5'20") pay at the penalty rate applicable to that position for each of the above named Sundays.

EMPLOYEES' STATEMENT OF FACTS: Employee F. B. Griller, with clerical seniority date of January 20, 1927 and non-clerical date of January 16, 1946, is the regular occupant of Position 594, Bill and Rate Clerk, at Sioux City, Iowa. His assigned hours are from 11:00 A. M. to 7:00 P. M. with one hour for lunch; Monday through Friday; rest days of Saturday and Sunday; rate of pay \$14.896 per day.

In addition to other duties, the rating and billing of carload meat is one of the principal duties assigned to Position 594 at Sioux City by bulletin (see Employees' Exhibit "A") and is performed by employee Griller, regular occupant of that position, Monday through Friday.

On Sunday, May 1st and Sunday June 5, 1955 the work of rating and billing carloads of meat, which work is regularly performed by employee Griller Monday through Friday, was assigned to and performed by a yard clerk at the East Yards who was assigned to work on Sundays. As shown by Employees' Exhibit "B" attached the work of rating and billing is not a duty regularly assigned by bulletin to positions of yard clerks.

Timeslips were filed by employee Griller with the Superintendent and were subsequently declined by him. The claim was appealed to and was declined by

Yard clerks customarily and regularly perform the work of making memo bills. This is true of the yard clerks at Sioux City. The yard clerk in preparing the memo bill did not absorb any work of the rate clerk position, as the rate clerk on the following Monday morning performed all work in connection with each car that he would normally perform in connection with rating and way-billing each car.

During the handling on the property the employees have cited no rule in support of the claim. In fact, in the opinion of the Carrier there is no provision upon which such a claim can be properly based. Claimant Griller was denied no work to which he was entitled and which he normally performs. The yard clerks and rate clerk are in the same seniority district.

This claim in behalf of rate clerk Griller for payment of work which he actually performed is not supported by schedule rule and the Carrier respectfully requests that same be denied.

All data contained herein has been presented to the employees.

(Exhibits not reproduced)

OPINION OF BOARD: Claimant F. B. Griller was the regular occupant of Bill and Rate Clerk Position No. 594, Sioux City, Stock Yards, Iowa, which was a Monday through Friday assignment. There were two other clerks positions at the same station. These were Yard Clerks, with Position No. 30, assigned from 3:30 P. M. to 11:30 P. M., seven days per week and Position No. 45 assigned from 11:59 P. M. to 8:59 A. M., seven days per week. All three of these positions were in the same clerical seniority district.

On Sunday, May 1, 1955, the Yard Clerk on duty prepared memo or slip waybills for five cars which were to be moved from the stockyards on outbound trains. This required some twenty minutes of the Yard Clerk's time. On the following morning, May 2, Claimant Griller rated the shipments, prepared the revenue waybills for each of the five cars and mailed them. Again on June 5, 1955, the Yard Clerk on duty spent approximately 10 minutes preparing slip waybills for three cars. Mr. Griller, the Claimant, again prepared the regular revenue waybills and mailed them on the following Monday. This he admits.

However, he has filed the present claim contending that Carrier violated Rule 28.

"Rule 28 — Where work is required by the Carrier to be performed on a day which is not a part of any assignment, it may be performed by an available extra or unassigned employe who will otherwise not have 40 hours of work that week; in all other cases by the regular employe."

This claim was denied by the Carrier on the ground that the Yard Clerks have always prepared memo or slip waybills on its property; and that Claimant has performed that part of the work in connection with these shipments in May and June 1955 which he would otherwise have done. Consequently the yard clerks performed no work that is exclusively assigned to Claimant Griller on his Monday to Friday assignment. That part of the work which is more regularly handled by him was admittedly left for him to perform during his regularly assigned hours on Monday.

Our conclusion is that the claim now before us has little merit. It must be denied on the same basis as the claim disposed of in Award 9772.

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 Employee involved in this dispute are respectively Carrier and Employee 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 16th day of December, 1960.