

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Thomas C. Begley, Referee

PARTIES TO DISPUTE:

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

NORTHERN PACIFIC RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that the Carrier violated the provisions of the Clerks' Agreement:

(1) When it abolished the position of General Clerk at Laurel, Montana, and concurrent therewith transferred practically all the remaining work, which was formerly performed by the General Clerk, to the Station Agent and the Telegraph Operator who are not covered by the Clerks' Agreement, and

(2) That Mr. E. H. Ebersviller, Cashier at Laurel, Montana, and/or his successors, be paid eight hours at time and one-half rate on January 14, 15, 21, 22, 28, 29 and February 4, 5, 11 and 12, 1956 and all subsequent Saturdays and Sundays until the work on such days is returned to employees covered by the Clerk's Agreement.

EMPLOYEES' STATEMENT OF FACTS: Prior to December 1, 1955, the force at the Laurel, Montana, Freight Office was as follows:

Cashier — Monday through Friday (5-day position)

General Clerk — 7-day position, Wednesday through Saturday. Hours 9:00 A.M. to 6:00 P.M. with Monday and Tuesday off.

1 Relief Clerk — Saturday and Sunday — Roundhouse, hours 8:00 A.M. to 4:00 P.M.

Monday and Tuesday — General Clerk, General Freight, hours 9:00 A.M. to 6:00 P.M.

Wednesday — Interchange Clerk, 12:00 Midnight to 8:00 A.M. Thursday and Friday off.

Agent and Day Telegrapher plus one Telegrapher each on the 4:00 P.M. and Midnight shifts.

Effective December 1, 1955, the position of General Clerk was abolished and as a consequence, the relief assignment attached thereto was lost and the work which remained to be performed on Saturday and Sunday was assigned to employees not covered by the Clerks' Agreement.

The Carrier has shown that traditionally telegraph service employees perform clerical work incident to their telegraphic duties; that this traditional practice has not been abrogated or modified by the Clerks' Agreement effective June 1, 1946, as revised effective September 1, 1949; that telegraph service employees are assigned to perform the work of billing livestock and freight shipments at Laurel from Monday through Sunday, inclusive; and that this work is performed by these employees incident to their telegraphic duties. The Carrier has also shown that the work performed by telegraph service employees at Laurel in billing livestock and freight shipments is not in contravention with the rules of the Clerks' Agreement.

The Carrier has also shown that should this Division find, contrary to established principles, that the cashier has acquired an exclusive right to bill livestock and freight shipments at Laurel on Saturdays and Sundays, that payment to the cashier is limited to payment at straight time rate for the number of hours consumed by the telegrapher in billing livestock and freight shipments on Saturdays and Sundays.

All data in support of the Carrier's position in connection with this claim has been presented to the duly authorized representative of the Employees and is made a part of the particular question in dispute.

(Exhibits not reproduced)

OPINION OF BOARD: The docket in this case does not contain sufficient factual data to enable the Division to make an intelligent award. Further *some of the statements of fact in the respective submissions are at variance with each other.* Therefore, the Division has no recourse but to dismiss the claim.

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 claim be dismissed.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 22nd day of September, 1961.