

Award No. 10793

Docket No. CL-10409

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Wesley Miller, Referee

PARTIES TO DISPUTE:

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

**CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY (LINES WEST OF MOBRIDGE)**

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

A. That the calling of crews and handling of crew board and records in connection therewith at Spokane, Washington, Roundhouse by employes without the scope of the parties' Agreement effective September 1, 1949, is violative of the provisions thereof.

B. (1) That Joe Ruscio, Roundhouse Clerk, Spokane, and his successor(s) if there be any on the Roundhouse Clerk's position at Spokane, be paid a call commencing Saturday, November 3, 1956, and a call for Sunday, November 4, 1956, and for the Saturdays and Sundays of each week thereafter including holidays until the rule violation is corrected when employes without the scope of the parties' Agreement called crews and performed other work incident thereto within the Roundhouse Clerk's weekly workday assignment 8:00 A. M. to 5:00 P. M.

(2) That Joe Ruscio, and his successor(s) if there be any on the Roundhouse Clerk's position at Spokane, be paid as a penalty a call on each date commencing Saturday, November 3, 1956, excluding the allowances claimed in Section B (1) of this claim, that employes of the Carrier not embraced within the Scope Rule of the parties' Agreement called crews and handled work incidental thereto until the rule violation is corrected.

EMPLOYES' STATEMENT OF FACTS: With opening of the new Yards in East Spokane January, 1956, the Carrier combined the offices of its several Mechanical Department Supervisors with that of the Roundhouse Foreman. The clerical position then assigned to Claimant Ruscio in the Master Mechanic's Office, Union Station, Spokane, was transferred to the new quarters and concurrently therewith the Carrier assigned to the Roundhouse Clerk exclusively the calling of crews, handling of the crew board and all work incidental thereto during his assigned hours of duty 8:00 A. M. to 5:00 P. M., Monday through Friday, except holidays.

Insofar as Spokane is concerned until January, 1956, the calling of engine crews was performed exclusively by classes of employees other than clerks and since January, 1956, the calling of enginemen has been performed by a clerk only during the Roundhouse Clerk's regular tour of duty, 8:00 A. M. to 5:00 P. M., Monday through Friday.

The Carrier holds:

1. That the claim should be dismissed for failure to properly progress it under the provisions of Article V of the agreement of August 21, 1954.
2. That regardless of Article V of the August 21, 1954 Agreement the claim is without merit as the calling of enginemen at Spokane, as well as other terminals, has never been recognized as the exclusive work of clerical employees.

All data contained herein has been presented to the employees.

OPINION OF BOARD: Examination of the Record reveals that Carrier consistently defended its denial of this Claim on two grounds: (1) that the Claim was without substantive merit, and (2) that it was improperly processed under Article V of the August 21, 1954 National Agreement (both of the parties being signatory thereto), and therefore, improperly before this Board.

Under the confronting facts of record, we are of the opinion that the Organization did, in fact, fail to comply with the provisions of said Article V, particularly Section 1 (b) and (c), which require that the Organization must notify each Carrier officer who declines its claim of rejection of his decision within 60 days of receipt of such disallowance.

We conclude, then, that the Claim is improperly before the Board and should be dismissed.

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

That the parties waived oral hearing;

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; and

That the Claim is improperly before us.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois this 19th day of September 1962.