

Award No. 10947

Docket No. CL-10152

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

John H. Dorsey, Referee

PARTIES TO DISPUTE:

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

SOUTHERN RAILWAY COMPANY

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

(a) The Carrier violated the Agreement when, on Saturday, January 5, 1957, an unassigned day of their positions, no extra or unassigned employee being available, it failed to afford preference for work on their positions to Claimants E. C. Snyder, K. I. Yarbrough, B. R. Dubsky, V. E. Drake, R. H. Hornsby and R. W. Barnhill, Jr.

(b) The Carrier shall now compensate Claimants Snyder, Yarbrough, Dubsky, Drake, Hornsby and Barnhill an additional day's pay at proper rate of time and one-half.

EMPLOYES' STATEMENT OF FACTS:

1. Claimants are employed in the office of Auditor of Payrolls, Material and Supplies, Roadway Timekeeping Section, Atlanta, Georgia. All employees in the office of Auditor Payrolls, Materials and Supplies are assigned to a work-week beginning on Monday, Saturday and Sunday being rest (or unassigned) days. The hours of assignment are from 8:15 A. M. to 4:45 P. M., thirty minutes being allowed for meal period.

2. Claimants' duties are to complete payrolls semi-monthly for roadway employees as follows:

Claimant Drake: Birmingham and St. Johns Terminal Divisions.

Claimant Dubsky: Ashville Division.

Claimant Barnhill: St. Louis — Louisville and NONE Divisions.

Claimant Snyder: GS&F Railway and Memphis Division.

Claimant Hornsby: Washington and Richmond Divisions.

The carrier has shown that the duties of the employes in the time-keeping section, office of Auditor of Payrolls, Atlanta, are identical and must be performed by distributing and regulating or equalizing the volume of work each pay period among the employes in that section; and that preference for extra (overtime) work has **always** been extended to those employes in seniority order, in accordance with Rule 28 of the current Clerks' Agreement.

For the reasons set forth herein, the claim is not supported by the rules and provisions of the effective agreement and should be denied in its entirety. Carrier respectfully requests that the Board so decide.

All pertinent facts and data used by the carrier in this dispute is known to the employe representatives.

(Exhibits not reproduced.)

OPINION OF BOARD: Claimants, all clerks, are employed in Carrier's timekeeping section, Auditor of Payrolls Office, Atlanta, Georgia. All the clerical Employes in the section are assigned to a workweek of Monday through Friday. The hours of assignment are 8:15 A. M. to 4:45 P. M., thirty minutes being allowed for meal period. The bulletins covering all of the clerical positions in the section describe the preponderating duties of each, identically, as follows:

"A general knowledge of timekeeping and a general knowledge of the various wage contracts with all employes other than engineers, firemen, conductors and trainmen. A knowledge of the Interstate Commerce Commission's classifications for reporting employes on Form 1936, Employes, Service and Compensation; a knowledge of the Interstate Commerce Commission's accounting classifications and regulations and an understanding of the allocation of accounts to operating pools and sub divisions. The duties will include reviewing and extending check rolls, etc., used in preparing payrolls; assisting in preparation of accounts receivable and transfer bills and joint facility statements; assisting in preparation of Authorized Improvements Forms 1758 and 1759; preparation of labor distributions, and hours and service reports Form 1936, and work of a general nature in connection with the compilation and preparation of payrolls, distributions, vouchers, bills and statement data relating thereto."

On Friday, January 4, 1957, Carrier decided that it would be necessary to use five Employes from the timekeeping section to perform extra work on Saturday, January 5, 1957. Carrier offered the work to and it was accepted by the five senior Employes in the section. These five worked from 8:15 A. M. to 7:00 P. M. During that time the five completed unfinished work on their own desks remaining after Friday; and, unfinished work on the desks of Claimants. The record does not disclose the time spent by the five working Employes to complete the work of the six Claimants. There is no question that all of this work had to be completed on Saturday to timely complete the payrolls.

The Organization contends that: (1) The six Claimants were regularly assigned each to complete semi-monthly payrolls for roadway Employes in a particular named Division; (2) The unfinished work remaining on the desk of each Claimant after Friday had been assigned to each; and,

therefore, each of them, as a matter of contractual right, should have been offered the opportunity to complete it on Saturday. Without adducing any proof as to the amount of time it would have taken each Claimant to complete the work on his desk, after Friday, the Organization claims that each should be made whole by payment to him of eight hours of pay at the rate of time and one-half.

The Carrier contends that: (1) The preponderating duties of all the clerks in the timekeeping section are identical; (2) Claimants were not regularly and exclusively assigned to do the payroll work for a particular designated Division; and, (3) By virtue of the provision of its contract with the Organization relative to "Assignment of Overtime" it was contractually bound to and did offer the overtime work to the five senior Employees in the section.

The pertinent provisions of the Collective Bargaining Contract are:

"Rule 28 — Assignment of Overtime (Revised, effective
July 1, 1951)

"(a) When necessary to work overtime before or after assigned hours, the employee occupying the position on which overtime work is necessary will be given preference.

"When necessary to work extra time (as distinguished from relief work, regularly assigned or otherwise) on rest days or holidays, the above principle shall apply.

"It is not intended that this rule shall require the calling of employees on rest days or holidays to perform less than one hour and thirty minutes work when there are other employees (either non-schedule or schedule supervisory employees or schedule employees of the same or a higher classification in the same group) already on duty in the department who can perform the service.

"(b) Work on Unassigned Days — Where work is required by the Carrier to be performed on a day which is not a part of any assignment, either an available extra or unassigned employee who would otherwise not have forty (40) hours of work that week or the regular employee may be used; unless such work is performed by an available extra or unassigned employee who would otherwise not have forty (40) hours of work that week, the regular employee shall be given preference.

"Where work is required to be performed on a holiday which is not a part of any assignment the regular employee shall be given preference.

"Wherever the words "the regular employee" are used in this Rule 28 (b) they shall mean the regular employee entitled to the work under this agreement."

The record shows that neither the Claimants or the senior clerical Employees in the timekeeping section, who performed the work in question, are assigned to work on Saturday.

The issue narrows to whether: (1) Claimants each held a position to which the timekeeping work of a particular designated Division was regularly and exclusively assigned, as each of them alleges; or, (2) By the fact that the unfinished work remaining on the desk of each Claimant after Friday had been assigned to them each was vested with a contractual right to the necessary overtime required to timely complete that work to satisfy Carrier's requirements.

Carrier, since the initiation of the claim, has taken the position that the work in the timekeeping section has never been and cannot be, by its exigencies, assigned by Division to a particular clerk. It points to the bulletins which describe, identically, the preponderating duties of all clerks in the section. The record does not show that the Organization, at any time, questioned the description of the preponderating duties in these bulletins. Therefore, as between the Claimants' allegations that they were regularly assigned, exclusively, the timekeeping work of a particular Division and the Carrier's evidence to the contrary, the Carrier's evidence is credited.

As to the Organization's contention that Claimants were entitled to complete the work remaining on the desk of each as of the close of the Office on Friday, the record does not support it. Inasmuch as the preponderating duties of all the clerks in the section are identical, the work done in the section is that of the section, as a whole, and not of individual clerks holding positions therein. When, therefore, the Carrier in the exercise of its management prerogative decides that overtime is required, as within the facts in this case, it is contractually bound to offer it in accordance with seniority to those clerks in the section having the same preponderating duties; this, Carrier did.

Upon the basis of the foregoing findings of fact, reasons and conclusions the claim must be denied.

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 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 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 5th day of December 1962.