

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

David Dolnick, Referee

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**PARTIES TO DISPUTE:**

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,  
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES**  
**THE PENNSYLVANIA RAILROAD COMPANY**

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

(a) The Carrier violated the provisions of the Clerks' Rules Agreement, effective May 1, 1942, except as amended, particularly Rule 4-C-1, on certain dates, in the Office of the Auditor of Freight Traffic, under the jurisdiction of the Comptroller, 15 North 32nd Street, Philadelphia, Pa.

(b) The named Claimants be paid at the rate of time and one-half for the dates and hours shown herein. [Docket 550]

**EMPLOYES' STATEMENT OF FACTS:** This dispute is between the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees as the representative of the class or craft of employees in which the Claimants in this case held a position and the Pennsylvania Railroad Company—hereinafter referred to as the Brotherhood and the Carrier, respectively.

There is in effect a Rules Agreement, effective May 1, 1942, except as amended, covering Clerical, Other Office, Station and Storehouse Employees between the Carrier and this Brotherhood which the Carrier has filed with the National Mediation Board in accordance with Section 5, Third (e), of the Railway Labor Act, and also with the National Railroad Adjustment Board. This Rules Agreement will be considered a part of this Statement of Facts. Various rules thereof may be referred to herein from time to time without quoting in full.

The Claimants in this case are employees holding regular positions covered by the Scope of the Clerks' Rules Agreement, having seniority in Seniority District A (1), Accounting Department—System General Office, located at 15 North 32nd Street, Philadelphia, Pa. Employees (Claimants) in that Seniority District are assigned to positions subject to the Bulletin and Awarding Rules.

On the dates shown here below the named Claimants were required to discontinue their regularly assigned duties during regular working hours for

The Carrier demands strict proof by competent evidence of all facts relied upon by the Employees, with the right to test the same by cross-examination, the right to produce competent evidence in its own behalf at a proper trial of this matter and the establishment of a record of all of the same.

All data contained herein have been presented to the employees involved or to their duly authorized representative.

(Exhibits not reproduced.)

**OPINION OF BOARD:** Claimants held regular clerical positions in the Office of the Auditor of Freight Traffic, at 15 North 32nd Street, Philadelphia, Pennsylvania. On February 7, 1958, all Claimants were assigned to gather and develop information necessary in the preparation of a special statement. Six of the Claimants also did this special work on February 10 and 11, 1958. This work was performed during Claimants' regular scheduled hours of work. The work was strictly not their regular assigned duties. A total of 176½ hours is involved. Claimants request time and one-half pay for the hours worked by each of them.

The claim is primarily predicated on the allegation that Carrier violated Rule 4-C-1 of the Agreement, which reads:

"Employees will not be required to suspend work during regular hours to absorb overtime."

There is no evidence in the record that the assignment of Claimants to the work in question was made for the purpose of absorbing overtime. Petitioner has failed to prove that this assignment deprived Claimants or any other employees of work at the overtime rate. The mere fact that "the work on each of the positions vacated was at least one year in arrears" is not proof that any employee was deprived of overtime work. Whether Claimants' regular assigned work was up to date or in arrears is the responsibility of Carrier. If Carrier permits the work to accumulate, it is his decision and his prerogative.

The type of work performed by Claimants was frequently done by them. It was work which was included in the advertised duties of their positions. Nowhere in the record does Petitioner dispute this. Claimants were not suspended from their regular assigned hours to equalize or absorb overtime, nor were they taken from their regular assignments and used in other positions where employees of those positions were deprived of overtime which would otherwise accrue. Instead, Claimants were required to perform clerical duties during their regular tour of duty which fall within the advertised duties of their positions.

**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 Carrier did not violate the Agreement.

AWARD

Claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of THIRD DIVISION

ATTEST: S. H. Schulty  
Executive Secretary

Dated at Chicago, Illinois, this 24th day of January 1964.