

Award No. 12564
Docket No. CL-12711

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John H. Dorsey, Referee

PARTIES TO DISPUTE:

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

ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that: (GL-4999):

CLAIM I

(a) The Carrier violated the terms of the current Agreement between the parties at Memphis, Tennessee, when on October 24, 1959, and subsequent dates, it assigned duties of the Utility Clerk position to be performed by messenger-porters and when it failed and refused to compensate the messenger-porters at the established rate of pay for the work they were required to perform.

(b) Messenger-porter C. T. Hogan shall now be allowed the difference between the rate of the position of Utility Clerk and the amount already paid for October 24, 1959.

(c) C. T. Hogan and all other occupants of messenger-porter position at Memphis, Tennessee, shall be allowed the difference between the rate of the position of Utility Clerk and the amount already paid for all dates subsequent to October 24, 1959, and for which claims of record have been filed as follows:

Employee	Dates
C. T. Hogan	June 2, 3, 4, 5, 6, 9, 10, 11, 12 and 13, 1960.
F. D. Arwood	March 20, 24, 25, 26, 27, 31, April 1 and 2, 1960.
M. E. Ellis	November 7, 8, 9, 12, 13, 19, December 15, 17, 18, 19, 24, 25, 26, 27, 28, 31, 1960. January 17, 18, 21, 22, 23, 24, 28, 29, 30, 31, February 4, 5, 6, 7, 8, 10, 11, 12, 13, and 18, 1961.
W. C. Freeman	December 24, 1959, December 17, 23, 24, 25, 30, 1960, January 1, 2, 6, 7, 13, 15, 20, March 3, 4, 5, 10, 11, 12, 17, 19, 20, 21, 24, 25 and 30, 1961.

Employee	Dates
B. D. Allen	January 9, 21, 22, 23, 24, 29, February 11, 13, 18, 19, 25, 26, March 3, 4, 5, 11, 13, April 9, 14, 15 and May 5, 1960.

(d) Utility Clerk L. R. Williams shall now be allowed payment at the time and one-half rate for forty minutes on March 11, 1960, and fifty minutes on March 13, 1960, representing time spent by messenger-porters in performing the work of his position on those dates.

CLAIM II

(a) The Carrier violated the terms of the current Agreement between the parties at West Tulsa, Oklahoma, when on March 29, 1960, and subsequent dates, it assigned duties of Yard Clerk positions to be performed by janitor-messengers and when it failed and refused to compensate the janitor-messengers at the established rate of pay for the work they were required to perform.

(b) Janitor-messenger P. L. Walner shall now be allowed the difference between the rate of position of Yard Clerks and the amount already paid for March 29, 1960.

(c) P. L. Walner and all other occupants of janitor-messenger position at West Tulsa, Oklahoma, shall be allowed the difference between the rate of the position of Yard Clerk and the amount already paid for all dates subsequent to March 29, 1960, for which claims of record have been filed as follows:

Employee	Dates
Paul L. Walner	March 30, June 28, July 4, September 12, October 13, 21, 1960, February 26, March 6, 9, and 11, 1961.
R. D. Garrison	December 11, 1960.
Ben Radcliff, Jr.	September 1, December 4 and 6, 1960.
B. L. Adams	July 2, 12, 16, November 23, 26, December 13 and 14, 1960.
B. F. Hill	June 16, 17, 24, 1960, February 27, March 14, 17 and 18, 1961.
T. G. Bradshaw	January 20 and 27, 1961.

EMPLOYEES' STATEMENT OF FACTS:

CLAIM I

When the principal train yard at Memphis, Tennessee, was moved to the newly built Tennessee Yard, which was placed in operation in 1957, the work of checking and carding cars moving over the "hump" was assigned exclusively to the occupants of utility clerk positions. These utility clerk positions are classified in seniority Group 1, and are rated at a rate of pay which is now \$19.74 per day. Carrier also maintained a position of messenger-porter at this facility and this position is classified in seniority Group 2 and rated at a rate of pay which is now \$16.64 per day. Prior to October 24, 1959,

The Organization, in effect, agrees that the issue in the instant dispute is the same as the issue decided by SBA No. 194 in Awards 19, 21, 22 and 36, but it is unwilling to accept the Board's interpretation of the rules. Therefore, the instant claims represent an effort on the part of the Organization to upset the principles laid down in the awards of SBA No. 194 and the Organization is merely approaching the same principle from several directions in an effort to have the Board reverse its position in those awards. It can only be concluded that the instant claims are nothing more than an attempt on the part of the Organization to relitigate a matter which has already been decided by Special Board of Adjustment No. 194. The awards rendered by SBA No. 194 are final and binding, and the Organization's dissent thereto renders them no less effective.

There is no basis for a sustaining award under the controlling rules agreement, and this Division is requested to so find.

(Exhibits not reproduced.)

OPINION OF BOARD: This claim involves the same parties and Agreement and presents the same issue as Award No. 12562. For the reasons stated in Award No. 12562, we will deny the claim.

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 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 Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 28th day of May 1964.