



Award No. 15546

Docket No. CL-15398

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 PACIFIC COMPANY
(Pacific Lines)**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5691) that:

(a) Carrier violated and continues to violate the Agreement between the parties effective October 1, 1940, as amended, when it removed the physical handling of its LCL rail-billed freight from the scope and operation thereof at the 5th and Kirkham Streets Freight Station, Oakland, California, and assigned it to Pacific Motor Trucking Company employees, which employees do not have seniority rights thereunder; and,

(b) Carrier shall now be required to restore said work to the scope and operation of the Agreement and compensate unassigned employees Edward Grondona, Gilbert Rodgers and Fred Rafael eight hours' pay each for Tuesday, March 7, 1961, and unassigned employees Gilbert Rodgers, James Crawford and Benjamin Robinson and their substitutes and/or successors in seniority order on the unassigned list, eight (8) hours' additional compensation each for Wednesday, March 8, 1961, and each date thereafter that they are not permitted to unload rail billed LCL freight from piggy-back vans when, instead, Pacific Motor Trucking Company employees not covered by the Agreement are required or permitted to unload such freight.

EMPLOYEES' STATEMENT OF FACTS: There is in evidence an Agreement bearing effective date October 1, 1940, reprinted May 2, 1955, including revisions (hereinafter referred to as the Agreement), between the Southern Pacific Company (Pacific Lines) (hereinafter referred to as the Carrier) and its employees represented by the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees (hereinafter referred to as the Employees) which Agreement is on file with this Board and by reference thereto is hereby made a part of this dispute.

cessors or substitutes, if any, for eight (8) hours' compensation for Wednesday, March 8, 1961, and for each and every day subsequent thereto and continuing until such time that less than carload freight moving on rail billing through Portland, Oregon which is transferred to vans at Portland and moved to Oakland via van, are spotted for checking and unloading at 5th and Kirkham Street, by Southern Pacific employees covered by the scope and rules of the Clerks' Agreement."

By letter dated May 12, 1961 (Carrier's Exhibit D), Division Superintendent denied the claim. That letter reads, in part, as follows:

"This was simply a case of trucking company employees transferring freight in its possession into trailer-on-flat-car equipment prior to delivery to the carrier, which does not involve or contravene any provision of the Clerks' Agreement.

Claim is not supported by any provision of the Clerks' Agreement, and is denied."

Copies of subsequent correspondence exchanged between Division Chairman and Division Superintendent are attached as Carrier's Exhibit E.

6. By letter dated July 10, 1961 (Carrier's Exhibit F), Petitioner's General Chairman appealed the claim to Carrier's Assistant Manager of Personnel, and advised as follows:

". . . We contend that these were LCL, rail-billed shipments, intended to continue in rail service, and the Agreement reserves the rights of employees covered by the Scope and Rules of the Clerks' Agreement to handle Southern Pacific LCL, rail-billed freight. For these reasons, therefore, we hold the claim is justified and compensable."

By letter dated December 4, 1961 (Carrier's Exhibit G), Carrier's Assistant Manager of Personnel denied the claim, and advised as follows:

"As stated to you in conference, this was simply a case of transferring less than carload freight by trucking company employees from trucking equipment received in trailer on flat car service to other trucks for further handling or local delivery, which did not involve or contravene any provision of the Clerks' Agreement."

(Exhibits not reproduced.)

OPINION OF BOARD: This case involves the same parties, Agreement and pivotal issue of alleged violation as in Award 15545. For reasons stated in that Award we will deny the instant 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 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 denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 5th day of May 1967.