

Award No. 18077
Docket No. CL-18397

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Paul C. Dugan, Referee

PARTIES TO DISPUTE:

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

NORTHERN PACIFIC RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6647) that:

1. The Carrier violated the provisions of the Clerks' Agreement, effective July 1, 1963, when it assigned the work of recording and referencing carload waybills and the work of maintaining the records of corrections issued by the local and interline revising clerks to the position of clerk assigned to James R. Miscera, effective October 9, 1967.

2. The Carrier violated Rule 55 of the July 1, 1963 Clerks' Agreement when it failed to allow the claim of James R. Miscera, Clerk, Received Revising Bureau, Freight Revenue Accounting Department, St. Paul General Office, as presented.

3. The Carrier shall now be required to compensate James R. Miscera at the rate of \$24.1567 per day on October 9, 1967 and all subsequent workdays and holidays in addition to the compensation already paid.

EMPLOYEES' STATEMENT OF FACTS: James R. Miscera is assigned to a position of clerk in the Received Revising Bureau in the Freight Revenue Accounting Department, St. Paul General Office. This position is assigned to work from 7:45 A. M. to 4:30 P. M., Monday through Friday, and is paid a rate of \$23.5393 per day. The principal duties assigned to this position consist of filing tariffs and supplements and preparing statement of undercharge and overcharge corrections.

Prior to October 7, 1967, the following two positions were also maintained in the Received Revising Bureau in the Freight Revenue Accounting Department, St. Paul General Office:

CLERK - 7:45 A. M. to 4:30 P. M., Monday-Friday.

Rate: \$24.1567 per day.

The instant claim, as well as other pending claims, was discussed in conference with the Clerks' Organization on November 7, 1967, at which time no agreement on claim was reached, but meeting was adjourned after lengthy discussion for both sides to reconsider their position and another conference would be held.

Under date of December 21, 1967, Division Chairman Dagnon again wrote the Manager of Freight Revenue Accounting, stating that as no declination for his claim filed on October 18, 1967 had been received, claim was in violation of Time Limit on Claims Rule, and should be allowed.

On December 26, 1967, Manager of Freight Revenue Accounting declined the claim of October 18 and December 21, 1967.

Claim was subsequently appealed by General Chairman Whelan to the Assistant Vice President-Labor Relations, the highest officer designated to receive claims, who declined the claim on April 25, 1968. The BRAC General Chairman declined the decision and, consequently, conferences were scheduled and held with the view of disposing of all claims by means of a rate adjustment, but no agreement was reached between the BRAC and the Carrier in disposition of this claim and other claims.

Enclosed as Carrier's Exhibit A is all correspondence concerning the handling of this claim on the property.

(Exhibits not reproduced.)

OPINION OF BOARD: The instant dispute presents the identical issue, under substantially the same factual circumstances as was considered by the Board in Award 18073, involving these same parties.

Accordingly, Award 18073 is held to be controlling herein, and the claims in this dispute are sustained to the same extent and in accordance with the Opinion and Findings in said Award.

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 violated the Agreement in accordance with the Opinion.

AWARD

Claim sustained in accordance with the Opinion.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION**

**ATTEST: S. H. Schulty
Executive Secretary**

Dated at Chicago, Illinois, this 11th day of September 1970.

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Serial No. 248

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Interpretation No. 1 to Award No. 18077

Docket No. CL-18397

Name of Organization:

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

Name of Carrier:

NORTHERN PACIFIC RAILWAY COMPANY

Upon application of the representatives of the Employees involved in the above Award, that this Division interpret the same in light of the dispute between the parties as to the meaning and application, as provided for in Section 3, First (m) of the Railway Labor Act, as approved June 21, 1934, the following interpretation is made:

This Board in Award No. 18077 found that our Award No. 18073 controlled this dispute involving the same parties as to this dispute, and concluded that the claims are sustained to the same extent and in accordance with the Opinion and Finding in said Award No. 18073.

We interpreted our Award No. 18073, in Interpretation No. 1 to said Award, and for the reasons stated in said Interpretation, Carrier shall allow \$24.1567 for October 9, 1967 and at the same rate for each workday he performed compensated service for Carrier, and for each holiday occurring in the claim period of October 9, 1967 to December 26, 1967.

Referee Paul C. Dugan, who sat with the Division, as a neutral member, when Award No. 18077 was adopted, also participated with the Division in making this interpretation.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION**

**ATTEST: E. A. Killeen
Executive Secretary**

Dated at Chicago, Illinois, this 29th day of October 1971.