

Award No. 18078
Docket No. CL-18398

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-6639) that:

1. The Carrier violated the provisions of the Clerks' Agreement, effective July 1, 1963, when it established five positions of Special Accountants in charge of certain Bureaus in the Freight Revenue Accounting Department and then transferred the following five Special Accountants from the Comptroller's Department to fill these positions:

Name and Title	Freight Revenue Accounting Department-Bureau
LaFond, R. J., Special Accountant	Audit Bureau and Revising Bureau
Carlton, R. H., Special Accountant	Forwarded Bureau & Govt. Bureau
Johnson, L. S., Special Accountant	Interline Received Bureau
Sorenson, C. C., Special Accountant	Waybills and Records Bureau
Gjerde, B. O., Special Accountant	All Bureaus

2. The Carrier violated Rule 55 of the July 1, 1963 Clerks' Agreement when it failed to allow the claim of the following employees employed in the Freight Revenue Accounting Department for payment at the rate of \$45.00 per day in addition to all monies received on October 9, 1967 and each succeeding workday and holiday:

Witzman, O. M. - Asst. Bureau Chief
Thill, D. J. - Clerk
Wurm, D. S. - Clerk
Scherz, S. G. - Clerk
Dodds, L. J., Jr. - Clerk
Kubal, R. J. - Clerk
Peterson, Wilma - Clerk
Miscera, J. R. - Clerk
Heaseman, Edna - Clerk
Schuna, A. F. - Clerk
Brown, R. L. - Clerk

3. The Carrier shall now be required to compensate the employees specified in Item 2 hereof \$45.00 per day on October 9, 1967 and each succeeding workday and holiday in addition to the compensation already paid.

EMPLOYEES' STATEMENT OF FACTS: The Comptroller's Department constitutes one seniority district and the Freight Revenue Accounting Department constitutes one seniority district in the application of Rule 4 of the July 1, 1963 Clerks' Agreement. These seniority districts are located in the St. Paul General Office.

The following employees, who have acquired seniority in the Freight Revenue Accounting Department, are assigned to the positions specified, working from 7:45 A. M. to 4:30 P. M., Monday through Friday:

Witzman, O. M. - Asst. Bureau Chief
Thill, D. J. - Clerk
Wurm, D. S. - Clerk
Scherz, S. G. - Clerk
Dodds, L. J., Jr. - Clerk
Kubal, R. J. - Clerk
Peterson, Wilma - Clerk
Miscera, J. R. - Clerk
Heaseman, Edna - Clerk
Schuna, A. F. - Clerk
Brown, R. L. - Clerk

The following employees are assigned to positions of Special Accountants in the Comptroller's Department:

LaFond, R. J.
Carlton, R. H.
Johnson, L. S.
Sorenson, C. C.
Gjerde, B. O.

The positions of Special Accountants are specified in Rule 1(c) (exempt positions) of the July 1, 1963 Clerks' Agreement. The positions of Special Accountants are paid a monthly rate to cover all services rendered.

On October 9, 1967, the Carrier established five positions in charge of the following Bureaus in the Freight Revenue Accounting Department:

Audit Bureau and Revising Bureau
Forwarded Bureau and Government Bureau
Interline Received Bureau
Waybills and Records Bureau
All Bureaus

Concurrent with the establishment of the five positions in charge of the specified Bureaus in the Freight Revenue Accounting Bureau, the Carrier

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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NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Interpretation No. 1 to Award No. 18079

Docket No. CL-18391

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:

The Organization is complaining that Carrier refuses to compensate the claimant \$25.52 per day on days claimant did not occupy the position in question due to promotion, vacation, leave of absence or vacation.

However, the claim as presented to this Board is for payment to claimant "at the rate of \$25.52 per day on each of the twenty workdays occurring during the period September 4, 1967 to September 29, 1967, inclusive, excluding September 9, 10, 16 and 17, 1967, in addition to the compensation already paid."

This Board is without authority to expand a claim. We are limited, if we find a violation, as we did in the instant claim, to allowing the claim as presented before this Board. Therefore, the Organization's contention in this regard is without merit and must be denied.

Referee Paul C. Dugan, who sat with the Division, as a neutral member, when Award No. 18079 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.

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