



Award No. 18080
Docket No. CL-18393

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 EMPLOYEES**

NORTHERN PACIFIC RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6646) that:

1. The Carrier violated the provisions of the Clerks' Agreement, effective July 1, 1963 when it assigned Special Accountant R. J. LaFond, employed in the Comptroller's Office, St. Paul General Office, to perform the work of sorting, counting, and filing tariffs and supplements into respective piles on October 12 and 13, 1967 in the Freight Revenue Accounting Department, St. Paul General Office.
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, 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 \$23.5393 per day on October 12 and 13, 1967, in addition to the compensation already allowed.

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.

James R. Miscera, who has acquired a seniority date of January 27, 1955 in the Freight Revenue Accounting Department, is assigned to a position of Clerk in the Freight Revenue Accounting Department, St. Paul General Office, working from 7:45 A. M. to 4:30 P. M., Monday through Friday. At the time this claim arose, the position assigned to Mr. Miscera was paid a rate of \$23.5393 per day.

The position of Clerk assigned to Mr. Miscera is subject to various rules of the current Clerks' Agreement, which became effective July 1, 1963.

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 record in this case reveals that this claim was filed with the Carrier on October 18, 1967; however, it was not denied by Carrier until December 26, 1967, sixty-nine (69) days subsequent to its presentation by the Organization. Accordingly, pursuant to Article V of the August 21, 1954 Agreement, Carrier violated the time limit, and the claim, Part 3, should be paid as presented.

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 the Agreement was violated as indicated in the Opinion.

AWARD

Claim sustained as indicated in the Opinion and Findings.

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. 18080

Docket No. CL-18393

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 asking this Board to expand the claim so that claimant may be compensated for days claimant did not occupy the position in question due to promotion, vacation, leave of absence or resignation. We have no authority to so comply. This Board is relegated, in this instance, to allow the claim as presented before this Board.

The Carrier shall allow claimant pay at the rate of \$23.5393 per day for October 12 and 13, 1967.

Referee Paul C. Dugan, who sat with the Division, as a neutral member, when Award No. 18080 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.