



Award No. 18545
Docket No. CL-18927

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Arthur W. Devine, Referee

PARTIES TO DISPUTE:

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

ST. LOUIS SOUTHWESTERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the
Brotherhood (GL-6836) that:

1. That Carrier violated the Clerks' current Agreement beginning March 6, 1969, in using Miscellaneous Clerk J. R. Pitts of the Statistical Bureau for performing overtime work in the Interline Bureau.

2(a). That General Clerk L. S. Land be compensated for the following amount of time at the time and one-half rate, and be compensated likewise for subsequent time and dates until the violation is corrected.

March 6, 1969 - 3 Hours	March 14, 1969 - 3 Hours
March 7, 1969 - 3 Hours	March 17, 1969 - 2 Hours
March 10, 1969 - 3 Hours	March 18, 1969 - 2 Hours
March 11, 1969 - 3 Hours	March 19, 1969 - 2 Hours
March 12, 1969 - 3 Hours	March 20, 1969 - 2 Hours
March 13, 1969 - 3 Hours	March 21, 1969 - 2 Hours
March 24, 1969 - 2 Hours	April 4, 1969 - 2 Hours
March 25, 1969 - 2 Hours	April 7, 1969 - 2 Hours
March 26, 1969 - 2 Hours	April 8, 1969 - 2 Hours
March 27, 1969 - 2 Hours	April 9, 1969 - 2 Hours
March 28, 1969 - 2 Hours	April 10, 1969 - 2 Hours
March 31, 1969 - 2 Hours	April 11, 1969 - 2 Hours
April 1, 1969 - 2 Hours	April 14, 1969 - 2 Hours
April 2, 1969 - 2 Hours	April 15, 1969 - 2 Hours
April 3, 1969 - 2 Hours	

TOTAL 65 Hours,

through April 15, 1969.

(b) That the records be checked for determining subsequent dates and time.

EMPLOYEES' STATEMENT OF FACTS: In the Carrier's office of Manager, Revenue Accounting, Tyler, Texas, there are five separate Bureaus or Departments, and the employees of each bureau perform all of the work required of that bureau. Each of those bureaus or departments works under the intermediate supervision of a Head Clerk, and under the over-all supervision or direction of the Manager, Revenue Accounting. The Head Clerk positions of those bureaus are listed under Exception C to the Scope Rule, as:

“Head Clerk – Statistical Bureau

Head Clerk – Revising Bureau

Head Clerk – Agents Accounts Bureau

Head Clerk – Interline Bureau

Head Clerk – Recheck Bureau”

Each of those separate bureaus are held accountable for all of the work required of that bureau, and all the employees in those bureaus are assigned 8:00 A.M.–5:00 P.M., Monday through Friday, with Saturday and Sunday rest days.

Claimant, Mr. L. S. Land, whose seniority dates from February 14, 1947, in the Revenue Accounting department, is a regularly assigned General Clerk in the Interline Bureau, and Mr. James R. Pitts, whose seniority dates from April 16, 1968, was, prior to February 7, 1969, the regularly assigned occupant of a Junior Interline Record Clerk position in the Interline Bureau. However, on February 7, 1969, Mr. James R. Pitts became assigned to a Miscellaneous Clerk position in the Statistical Bureau, a separate bureau from the Interline Bureau.

While Mr. Pitts was assigned to the Junior Interline Record Clerk position, it was often necessary that he work overtime, after his assigned hours and, sometimes, on Saturdays in order to keep up the work required of the position. And even after he bid for and was assigned to the Miscellaneous Clerk position in the Statistical Bureau he continued to be used on overtime after his assigned hours for performing work on the Junior Interline Record Clerk position, in the Interline Bureau, instead of Claimant, who was a regular assigned employee in the Interline Bureau and whose seniority was greater than that of James R. Pitts.

Claim was filed in the matter with Manager, Revenue Accounting, Mr. Dan M. O'Connor, on May 5, 1969 and was denied by him in his letter of May 23, 1969, wherein he said:

“In my opinion there was no violation of Rules 4, 32-9 or any other rule of the current agreement. The claim is not supported by the agreed rules and it is, therefore, respectfully denied.”

(Employees' Exhibits A and B.)

OPINION OF BOARD: The record shows that in Carrier's Revenue Accounting Department there are five sub-department bureaus, namely:

Agents Accounts Bureau
Interline-Recheck Bureau
Overcharge Claim Bureau
Revising Bureau
Statistical Bureau

The claim involves overtime worked in the Interline-Recheck Bureau. Rule 32-9, dealing expressly with the distribution of overtime work, reads:

"32-9. In working overtime before or after assigned hours, employes regularly assigned to class of work for which overtime is necessary shall be given preference."

In the handling of the dispute on the property the Carrier contended the "work for which the overtime in this case was necessary was not work of the class that is assigned to and performed by the Claimant as a part of his regularly assigned duties, and no rule in the agreement gives him a preferential right to claim such overtime work over the employe used." No probative evidence was introduced in the handling on the property to show that Claimant was "regularly assigned to class of work for which overtime is necessary."

It is well settled that in proceedings before this Board, it is incumbent upon the Petitioner to prove all essential elements of its claim and that the Board will not consider issues that were not raised in the handling on the property. In their submissions to the Board both parties have raised issues that apparently were not considered on the property, the Petitioner contending, for instance, that Claimant was regularly assigned in the Interline Bureau, and the Carrier contending that he was assigned to position of General Clerk, which position was not used to perform work in the Interline-Recheck Bureau. The Board has no way of resolving conflicting statements or contentions, and on the basis of the confused record in this docket, we have no alternative but to dismiss the dispute.

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 Employes involved in this dispute are respectively Carrier and Employes 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 claim be dismissed.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 13th day of May 1971.