

Award No. 19039
Docket No. CL-17504

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Gene T. Ritter, Referee

PARTIES TO DISPUTE:

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

**CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6379) that:

1. Carrier violated the rules of the Clerks' Agreement at Mobridge, S. D. when on Saturdays and Sundays it assigned clerical work previously assigned to and performed by clerical employes on 7 days per week and which clerical employes continue to perform Monday through Friday to the Agent/Operator, an employe outside the scope and application of the Clerks' Agreement.

2. Carrier shall compensate employe R. Owens for 3 hours at the pro rata rate of Cashier-Yard Clerk Position 68510 for Saturday November 19, 1966 and Saturday, December 3, 1966 and for 5 hours 20 minutes at the time and one-half rate of Cashier-Yard Clerk Position 68510 for Sunday, November 20, 1966 and Sunday, December 4, 1966.

3. Carrier shall compensate employe R. C. Baer for 3 hours at the pro rata rate of Yard Clerk Position 68540 for Saturday, November 12 and Saturday, November 26, 1966, and for 5 hours 20 minutes at the time and one-half rate of Yard Clerk Position 68540 for Sunday, November 13, 1966 and Sunday, November 27, 1966.

EMPLOYEES' STATEMENT OF FACTS: The seniority roster for District No. 40 issued July 1, 1966 shows the following clerical positions in effect at Mobridge, South Dakota:

Title	Position	Occupant
Yard Clerk	68540	L. Swanton
Cashier	68510	R. Owens
Yard Clerk	68510-68520-68540	R. C. Baer
Yard Clerk	68520	W. R. Gluyas
Steno-Clerk	65400	J. C. May

December 1, 1927	Operator
May 1, 1939	Agent
April 1, 1947	Agent
September 1, 1949	Agent

The first Agreement with the Clerks' Organization on this property became effective January 1, 1920 or in other words, almost seventeen (17) years after the first Telegraphers' Agreement and six years (6) after Mobridge first appeared in the Telegraphers' Agreement revised effective September 1, 1914, and has subsequently been revised on February 1, 1922, November 1, 1929, January 16, 1946 and September 1, 1949.

All clerical positions, including Positions Nos. 68510 and 68540 were established at Mobridge, So. Dakota for the express purpose of assisting the agent and/or other employees within the scope and application of the Telegraphers' Agreement in the performance of that part of the station work which, because of the volume involved, the agent and/or operators were and/or are unable to perform.

The disputed item of work in this instant claim is work generally associated with that of crew calling. To be specific, the Employees when handling this dispute on the property, although labeling the disputed work in Item No. 1 of their Statement of Claim with a term that would be applicable to a multitude of duties, i.e. " * * * clerical work * * *" defined this " * * * clerical work * * *" as "to write up the Trainmen's and Enginemen's Crew Book and to mark up the Trainmen's and Enginemen's Crew Boards * * *"

By the instant claim now before your Honorable Board for adjudication, the Employees are contending that this crew calling work, i.e. " * * * to write up the Trainmen's and Enginemen's Crew Books and to change the Trainmen's and Enginemen's Crew Boards * * *," is work reserved to Clerical Positions Nos. 68510 and 68540 located at Mobridge, but which in fact is not work exclusive to either position nor any other clerical position, either at Mobridge or throughout the Carrier's entire System, nor is this disputed item of work reserved exclusively for Claimants Owens and Baer, or any other employee under the scope of the Clerks' Agreement, either at Mobridge or throughout the Carrier's entire System, as the Carrier will establish in its Position.

There is attached hereto as Carrier's Exhibit "A," copy of letter written by Mr. S. W. Amour, Vice President - Labor Relations, to Mr. H. C. Hopper, General Chairman, under date of March 27, 1967.

(Exhibits not reproduced.)

OPINION OF BOARD: Upon discontinuance of 7 day per week yard clerk service at Mobridge, South Dakota, Carrier assigned the work of writing up the crew book and marking up the Crew Board to the Agent-Operator on the unassigned Saturday and Sunday rest days of the two remaining yard clerk positions. The Organization contends that the involved work is overtime work, controlled by Rule 28 of the Agreement, which requires the utilization of Claimants for these services on an overtime basis. Carrier contends that the involved work is not exclusive to clerks or telegraphers at Mobridge or throughout Carrier's entire system, and that, therefore, Claim-

ants are not required to be called for this overtime work. Rule 28 is as follows:

"Where work is required by Carrier to be performed on a day which is not part of any assignment, it may be performed by an available extra or unassigned employe who will otherwise not have 40 hours of work that week; in all other cases by the regular employe."

This dispute has been well settled in many prior awards. All of these prior awards are sustaining awards. See Awards No. 18856 (Cull); 18245 (Dugan); 18346 (Dorsey); 18092 (Dolnick) and many others. There is no doubt that the regular employe is entitled to the overtime work in this position. Therefore, this claim will be sustained.

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 Agreement was violated.

AWARD

Claim sustained.

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

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

Dated at Chicago, Illinois, this 28th day of February 1972.