

Award No. 19077
Docket No. CL-15424

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Don Hamilton, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY 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-5721) that:*

1. The Carrier violated and continues to violate the Clerks' Rules Agreement when it assigned and continues to assign work in connection with Mail and Baggage handling and other clerical duties which were part of assignments covering 7-day service on Ticket Clerk Position No. 1954 at Elgin, Illinois to Telegraph Operators who are employees not covered thereby.

2. Carrier shall now be required to return the clerical and mail and baggage handling work removed from Ticket Clerk Position No. 1954 and assigned to Telegraph Operators at Elgin, Illinois on each Saturday and Sunday to employees covered by the scope and application of the Clerks' Rules Agreement.

3. Carrier shall now be required to compensate employee W. C. Head for a call for Saturday and Sunday, January 11 and 12, 1964 as provided by Rules 34(a) and (d) of the Clerks' Rules Agreement, and all subsequent Saturdays and Sundays in a like manner until the violation is corrected.

EMPLOYEES' STATEMENT OF FACTS: *Employee W. C. Head is the regularly assigned occupant of Ticket Clerk Position No. 1954 at Elgin, Illinois. His hours of service are from 7:30 A. M. to 4:30 P. M., Monday through Friday. His rest days are Saturday and Sunday.*

Subsequent to the 40-Hour Week Agreement, 7-day service was required on Ticket Clerk Position No. 1954 and a regularly assigned relief employee filled the position on Saturday and Sunday.

Employee L. R. Schmidt is the regular occupant of Warehouse Foreman Position No. 1956 at Elgin, Illinois. His hours of service are from 7:30 A. M. to 4:30 P. M., Monday through Friday, with Saturday and Sunday rest days, which are unrelieved days, or in other words unassigned days. Included in the duties of the Warehouse Foreman is the handling of mail and baggage for Train No. 20 during his regular hours of assignment on Monday through

Clerk Position No. 1954, but which, in fact, is not work exclusive to Ticket Clerk Position No. 1954 or any other position within the scope and application of the Clerks' Agreement as the Carrier will establish in its "Position."

Attached hereto as Carrier's Exhibits are copies of the following letters:

Letter written by Mr. S. W. Amour, Assistant to Vice President, to Mr. H. V. Gilligan, General Chairman, under date of June 25, 1964 — Carrier's Exhibit "A";

Letter written by Mr. Amour to Mr. Gilligan under date of October 19, 1964 — Carrier's Exhibit "B";

Letter written by Mr. Amour to Mr. Gilligan under date of December 17, 1964 — Carrier's Exhibit "C".

(Exhibits not reproduced.)

OPINION OF BOARD: The claimant in this case is the regularly assigned occupant of Ticket Clerk position No. 1954. His assigned days are Monday through Friday, with rest days Saturday and Sunday. A regularly assigned relief employee filled the position on Saturday and Sunday.

Employee Schmidt is the regular occupant of Warehouse Foreman position No. 1956. His assigned days are Monday through Friday, with Saturday and Sunday rest days which are unrelieved, or unassigned days. Included in the duties of the Warehouse Foreman is the handling of mail and baggage for train No. 20 during his regular hours of assignment, Monday, through Friday. This work was assigned on Saturday and Sunday to Relief Position No. 14, which relieved Ticket Clerk position No. 1954.

A vacancy occurred on Relief Clerk position No. 14 and a Bulletin was issued, but there were no applicants for the position.

The position was not abolished and no further effort was made to fill the same. The claimant was assigned on a call basis to work on his Saturday and Sunday rest day until January 11, 1964, which this work was assigned to the Telegrapher Operator on Saturday and Sunday. The Warehouse Foreman continued to perform the work Monday through Friday.

This claim is presented in three numbered paragraphs.

Paragraph No. 1 alleges the violation. Paragraph No. 2 prays that the Carrier be required to return the clerical and mail and baggage handling work to employees covered by the scope and application of the Clerks' Rules Agreement.

We are of the opinion that since the relief position was not filled and the position was not abolished, that the Carrier should be required to return this work to the Clerks' Organization.

In regard to Paragraph No. 3 of the claim, we believe that the Warehouse Foreman, who regularly performed the duties complained of herein Monday through Friday, would have been the proper employee to have made claim for a call on Saturday and Sunday.

However, the Organization processed this claim on behalf of Ticket Clerk Head. Therefore, we have no alternative but to deny Paragraph No. 3

of the claim for the reason that the same has been presented to the Board by an improper claimant.

Therefore, we sustain Paragraphs 1 and 2 of the claim and deny Paragraph No. 3.

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 in accordance with the Opinion.

AWARD

We sustain paragraphs 1 and 2 of the claim and deny Paragraph No. 3.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: E. A. Killen
Executive Secretary

Dated at Chicago, Illinois, this 10th day of March 1972.