

NATIONAL RAILROAD **ADJUSTMENT** BOARD

THIRD DIVISION

Award Number 22430
Docket Number cL-22408

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: ((Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station **Employees**
(Missouri-Kansas-Texas Railroad Company

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brotherhood
(GL-8546) that:

(1) The Carrier violated the current Clerks' Agreement at Fort Worth, Texas, when on Legal Holiday, Washington's Birthday, February 21, 1977, it failed and refused to permit Mr. C. L. **Brannon** to work his regular assignment, which **was** a regular work day and a holiday.

(2) Carrier shall now be required to compensate Mr. C. L. **Brannon** eight (8) hours' pay at the time and one-half rate of his regular assignment, Switching Clerk Position No. 4399, for February 21, 1977, in addition to any compensation already received for that date.

OPINION OF BOARD: Claimant was regularly assigned to Position 4339, 8:00 a.m. to 5:00 p.m., Mondays through Fridays. On February 21, 1977 (Washington's Birthday), Carrier "blanked" the assignment. However, the Claimant insists that another clerk performed work which otherwise would have been performed by him.

Rule 45(e) states that when work is to be performed on a day which is not part of any assignment, the regular **employee** shall be utilized (**with** certain exceptions **not** here applicable). Thus, reasons the Claimant, he - and he alone - had the right to perform the work on the holiday.

The record supports the **Employee's contention** that the other clerk did perform the work **in** question, but the Carrier states that even if that is the case, said individual normally performs identical work on weekends, and a certain Addendum No. 10 permits that activity.

We are of ~~the view~~ that Rule 45 applies- ~~not Addendum 10~~ - and that under these circumstances, the regular employee, i.e., Claimant, was entitled to the work, notwithstanding the fact that the other clerk may have performed the same function on Claimant's rest days. In this regard, our Award 20187 controls.

FINDINGS: The Third Division of the Adjustment Board, upon ~~the whole~~ record and all the evidence, finds and holds:

That the parties waived oralhearing;

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.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 15th day of June 1979.