

NATIONAL RAILROAD ADJUSTMENT BOARD

Third Division

Paul Samuell, Referee

PARTIES TO DISPUTE:

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

WABASH RAILWAY COMPANY

DISPUTE.—"Violation of Schedule Agreement for Clerks, effective August 1, 1929, by abolishment of clerical position in the Stationery Store Department, basic rate \$4.36 per day, and reestablishment of position on part-time basis, covering same class or grade of work, with change in title, and compensated on an hourly basis of \$0.5275 per hour. Request that position in question be bulletined with former title, and basic rate of \$4.36 per day, and employees affected be reimbursed for monetary loss sustained by this violation of the Agreement, retroactive to the effective date position was reestablished in September 1932."

FINDINGS.—The Third Division of the Adjustment Board upon the whole record and all the evidence, finds 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.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

The parties to said dispute were given due notice of hearing thereon. Hearing was had on March 27, 1935, and later the Division was unable to agree upon an award because of a deadlock. Paul Samuell was selected as referee to sit with the Division and make an award. A majority of the members of the Third Division so constituted, finds that:

An agreement bearing date of August 1, 1929, is in effect between the parties.

Position No. 7 in the Stationery Store Department, title of Stockman helper, basic rate \$4.36 per day, was abolished by bulletin effective May 7, 1932. A position was created in September 1932, with title of Store Helper, covering the same class or grade of work, with a rate of \$0.5275 per hour. By the change from daily to hourly rate, the Management reduced basic earnings of the occupant 14¢ per day. The position was worked part time without regard to the six-day guarantee rule of the Agreement. The occupant, when required to report at the regular starting time on Saturdays, was compensated for 4½ hours, while other employees in the department received a full day's pay for the same hours worked, in line with the Saturday half-holiday rule.

In January 1934 instructions were issued that there would be no more Saturday work for that position.

The title of position, rate of pay, name, and seniority date of occupant appear on the clerical seniority roster of the Stationery Store Department. The employee now assigned to the position formerly held position of accountant in the department.

Claim is based on section (a) and first "Note" thereto and sections (e) and (f) Rule 2; also section (p) Rule 11, and section (b) Rule 23, reading:

"**RULE 2.** (a) Eight consecutive hours, not including the meal period, shall constitute a day's work."

"**NOTE.**—Only such clerical employees as are necessary to perform the business of the Company shall be required to work on Saturday afternoon, and no reduction in pay will be made from employees relieved."

"(e) Employees covered by these rules shall be paid on the daily basis. To determine the daily rate for monthly rated employees, multiply the monthly rate by twelve (12) and divide by three hundred and six (306)."

"(f) Nothing herein shall be construed to permit the reduction of days for employees covered by these rules below six (6) per week, except that

this number may be reduced in a week in which holidays occur by the number of such holidays."

"RULE 11. (p) No position shall be abolished and new one created under another title covering the same class or grade of work for the purpose of reducing the pay or evading the application of this schedule."

"RULE 23. (b) No rate, rule, or part of a rule in this agreement will be eliminated, annulled, or changed without the approval of the Vice President and General Committee for Clerks and after thirty (30) days' notice."

It is found that the duties attached to the position classified by the Management as store helper are of the same class or grade of work as those previously attached to clerical position No. 7 (referred to by the employees as Stockman helper), and that above-quoted rules apply.

AWARD

The position now designated as Store Helper shall be bulletined as position No. 7 at basic rate of \$4.36 per day and the claim of those employees having occupied said position subsequent to September 8th, 1932 for reimbursement for monetary loss sustained is hereby allowed and awarded.

By Order of Third Division:

Attest:

NATIONAL RAILROAD ADJUSTMENT BOARD,

H. A. JOHNSON,
Secretary.

Dated at Chicago, Illinois, this 25th day of June 1935.