

NATIONAL RAILROAD ADJUSTMENT BOARD
Third Division

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS, FREIGHT
HANDLERS, EXPRESS AND STATION EMPLOYES**
MISSOURI PACIFIC RAILROAD COMPANY

DISPUTE.—"Claim of employees that position of Assistant Agent, Cape Girardeau, Mo., be reclassified, re-rated, bulletined, and assigned in accordance with the Clerks' Agreement effective August 1, 1926."

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.

The carrier maintains at Cape Girardeau, Mo., position of Assistant Agent, appointive and on a monthly rate of pay.

There is in evidence an agreement bearing effective date of August 1, 1926, between the parties, and the petitioner cites and relies upon Rule 2 thereof, reading in part, as follows:

RULE 2. Employees who for a majority of the working days of the month devote not less than four hours per day to the writing and calculating incident to keeping records and accounts, writing and transcribing letters, bills, reports, statements, and similar work, etc., shall be designated as clerks."

The carrier cites and relies upon Rule 1 thereof, reading in part, as follows:

"Rule 1. These rules shall govern the hours of service and working conditions of the following employees, subject to the exceptions noted below:

"(1) Clerks.

"(2) Other office and station employees, such as office boys, messengers, chore boys, train announcers, gatemen, checkers, baggage and parcel room employees, train and engine crew callers, operators of office or station equipment devices, telephone switchboard operators, elevator operators, office, station, and warehouse watchmen and janitors.

"(3) Laborers employed in and around stations, storehouses, and warehouses.

"*Exceptions.*—(a) * * *.

(b) This agreement shall not apply to employees assigned to road service where special training, experience, and fitness are necessary, nor to employees covered by special memorandum, occupying positions of a direct and confidential nature or whose duties and responsibilities are such that their selection must remain in the hands of the employing officer."

and thereby represents that position of "Assistant Agent" is not subject to the terms of the Agreement in evidence.

The Third Division finds that the position described in the record as "Assistant Agent" at Cape Girardeau, Mo., is, in fact, that of a "Clerk" and subject to the terms of the Agreement between the parties.

AWARD

Claim sustained.

By Order of Third Division:

NATIONAL RAILROAD ADJUSTMENT BOARD.

Attest:

H. A. JOHNSON,
Secretary.

Dated at Chicago, Illinois, this 2nd day of December 1935.