

NATIONAL RAILROAD ADJUSTMENT BOARD
Third Division

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS
GULF AND SHIP ISLAND RAILROAD COMPANY

DISPUTE.—"That Extra Telegrapher W. L. Bass be paid for time lost from December 18, 1934, to January 2, 1935, inclusive, account not being used as relief ticket agent at Gulfport, Miss., while the regular ticket agent was off duty account illness."

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

The carrier and the employee involved in this dispute are respectively carrier and employee 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 parties have jointly certified the following Statement of Facts and the Third Division so finds, to-wit:

"J. H. Mathews, employed as ticket agent for the G. & S. I. and L. & N. Railroads in the joint agency at Gulfport, Miss., was relieved from duty account illness from December 18, 1934, to January 2, 1935, inclusive. The clerk-operator employed on the first trick in this joint agency was used as relief ticket agent during Mr. Mathews' absence.

"The position of ticket agent is carried on the G. & S. I. pay roll, and Mr. Mathews holds seniority on the G. & S. I. Railroad. The position of clerk-operator is carried on the L. & N. pay roll, and the employee filling this position holds seniority on the L. & N. Railroad.

"The position of ticket agent is carried in the schedule agreement in effect between the O. R. T. and G. & S. I. Railroad, dated August 16, 1932. The position of clerk-operator is carried in the schedule agreement in effect between the O. R. T. and the L. & N. Railroad.

"The clerk-operator's position was filled by an L. & N. employee during the temporary vacancy.

"W. L. Bass, senior extra employee on the Telegraphers' roster on Gulf and Ship Island Railroad, was not called for this work. Bass claims pay for each day the ticket agent was absent, on which he (Bass) was not used. Claim is denied by Gulf and Ship Island Railroad."

Under the terms of an operating agreement dated December 21, 1903, the passenger station facilities at Gulfport, Miss., are jointly used by the Gulf and Ship Island and the Louisville and Nashville Railroads, and the personnel engaged thereon is in the joint service of those carriers and designated their joint employees. The wages of said joint employees are shared by said carriers upon the customary bases; those of the Joint Ticket Agent on basis of the number of tickets sold for their respective accounts; and those of three clerk-operators, one-half by each of said carriers. The operating agreement further provided, among other things, that the position of Joint Ticket Agent be filled alternately by Gulf and Ship Island and Louisville and Nashville employees as the said position became vacant.

It is not represented that the petitioner was bound by the terms of said operating agreement between the carriers, neither is it found that the schedule agreement, negotiated by the petitioner with each of the carriers separately to govern the wages and working conditions of employees therein respectively designated, provides for filling position of Joint Ticket Agent alternately by Gulf and Ship Island and Louisville and Nashville employees as the said position became vacant.

The evidence is, however, that whenever a permanent vacancy occurred in the position of Joint Ticket Agent it was alternately filled by an employee theretofore in the exclusive service of one or the other of the respective carriers without objection on part of petitioner who is shown to be party to a separate working agreement with each of the carriers cited; and that whenever a temporary vacancy developed thereon it has been filled by an employee included within the scope of working agreement between the petitioner and the carrier which was next due to make a permanent assignment on said position. The authority for such practice of filling temporary vacancies is first disputed by petitioner in the instant proceeding; i. e., as of December 18, 1934, although it is shown that there were some prior incidents spread over a period of years.

The parties are in agreement that the past practice of filling temporary vacancies in position of Joint Ticket Agent at Gulfport, Miss., has been an erroneous one, and that the same should be filled under the terms of working agreement applicable to the employee regularly assigned to the said joint position and from among employees otherwise subject thereto.

The Third Division concurs in said conclusion of the parties but finds no cause for fixing sole responsibility for such past error upon the carrier which responsibility is, under the circumstances, held to have been the joint responsibility of the parties; hence, the following:

AWARD

Claim denied.

By Order of Third Division:

NATIONAL RAILROAD ADJUSTMENT BOARD,

Attest:

H. A. JOHNSON,
Secretary.

Dated at Chicago, Illinois, this 3rd day of December 1935.